New Enviro Justice Laws are U.S. Model

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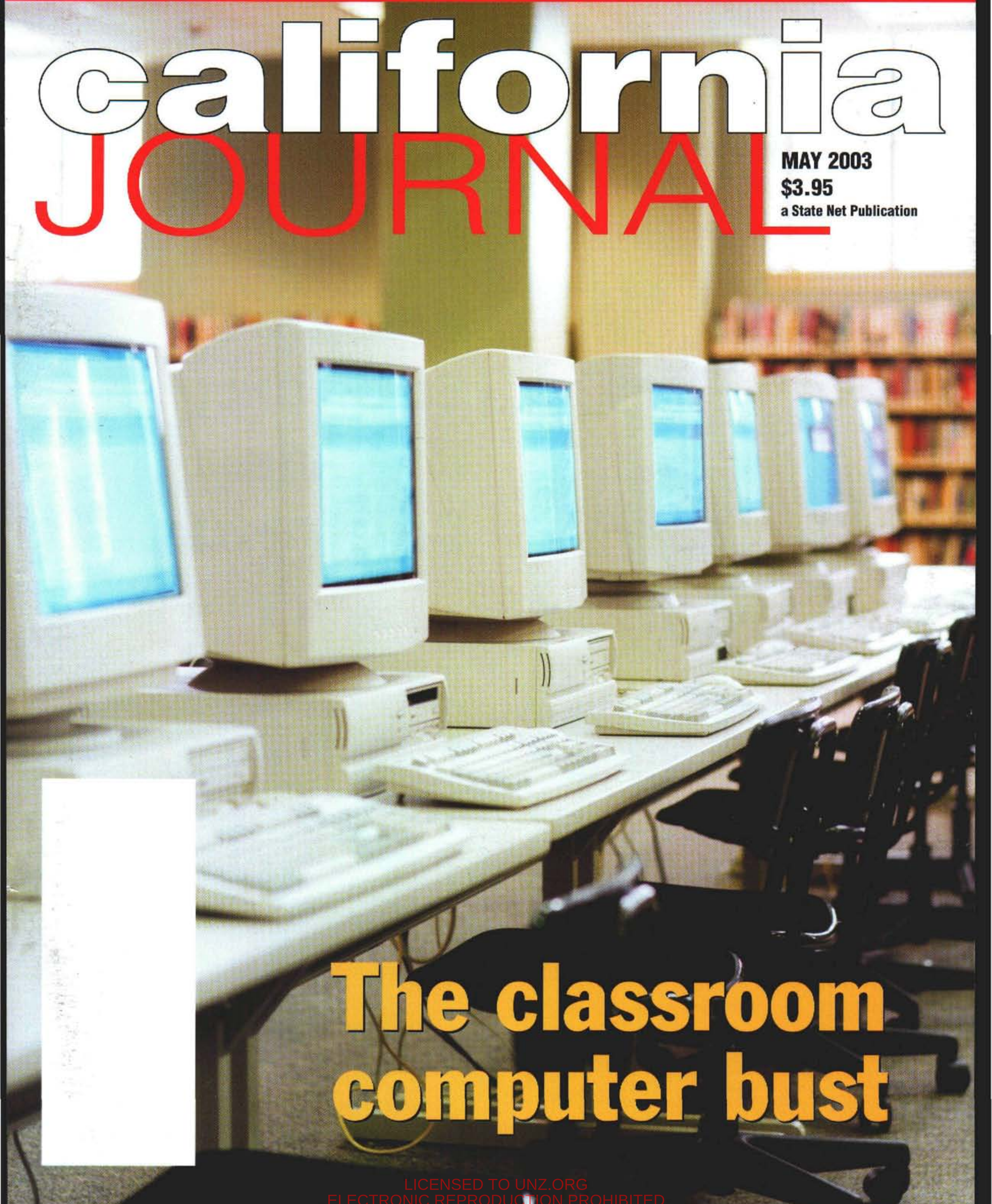
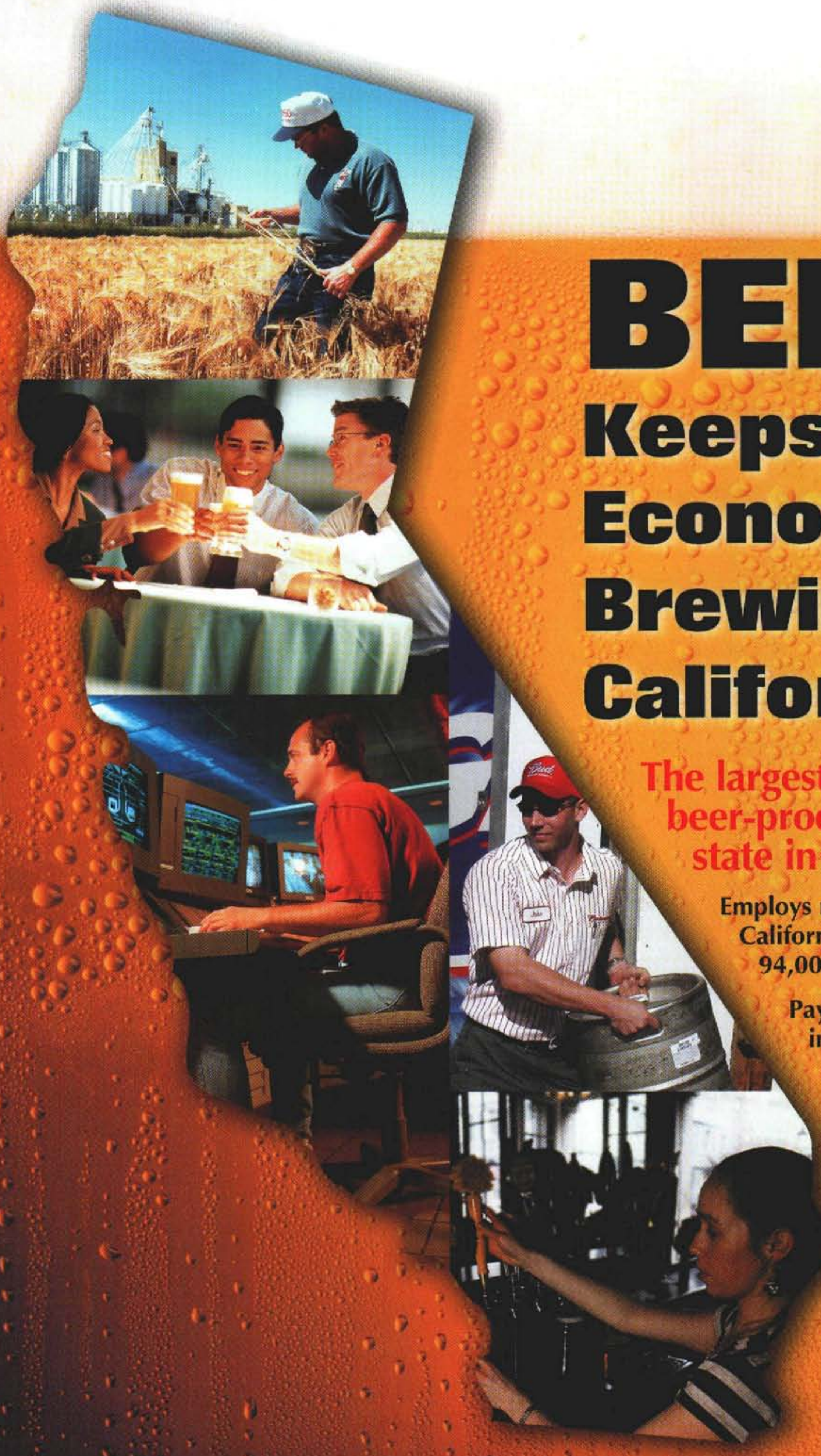


The classroom computer bust



BEER Keeps the Economy Brewing in California...

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Pays approximately $1.7 billion in federal, state and local taxes.

The facts are clear... the beer industry is good business for California.

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[illegible] study by John Dunham & Associates, commissioned by the Beer Institute

california
JOURNAL
May 2003
Volume XXXIV, Number 5
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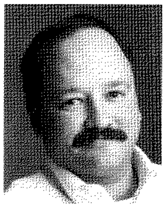
features

4 **Upfront**
5 **Talking Points**
17 **Rostrum**
18 **Southern Exposure**
By Sherry Bebitch Jeffe
28 **The Bottom Line**
By Susan Rasky
34 **D.C. Perspective**
By Marc Sandalow
36 **People**
38 **From the Floor**

from the editor

Computer learning

By David Lesher



My 8-year-old son, Christopher, learned his ABCs, his planets and his dinosaurs on pre-school computer programs. One had animated creatures that drew each letter and sang the alphabet. Another put him in a spaceship to fly through the solar system and another sent him back in time. At 4, he knew more about the Mesozoic Era than I did. I must say that I was awed by the future. I wondered what the world would be like when cellular phones and computers are as antique to him as black-and-white television is to me. Today, I'm still amazed by the future, but computers have not kept up with my expectations as a learning tool. Based on this month's cover story, it appears California educators have undergone a similar evolution. The rush to get as many computers into the classroom as possible — at great cost — has given way to a realistic consideration about how they should be used. Sometimes, they've found, the old fashioned way works best.

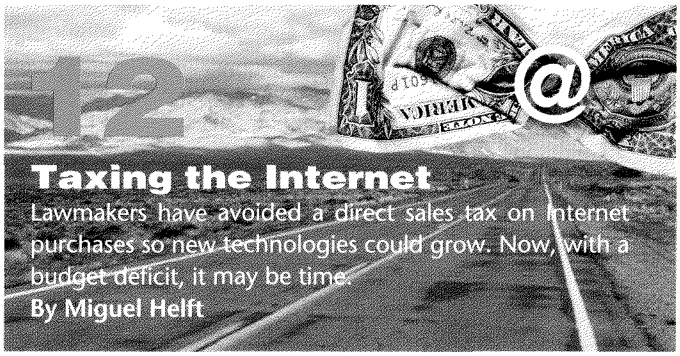
reports

a is for apple

6

Teaching without computers

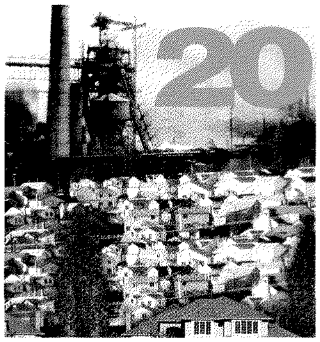
Now that the high-tech frenzy is over, California educators are wondering about the future role of computers in the classroom.
By Anthony York



12

Taxing the Internet

Lawmakers have avoided a direct sales tax on Internet purchases so new technologies could grow. Now, with a budget deficit, it may be time.
By Miguel Helft



20

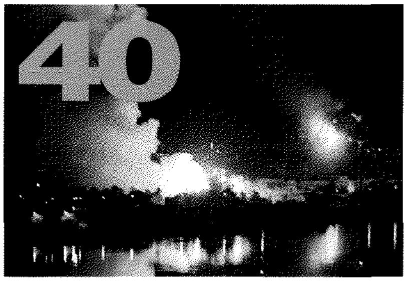
Environmental justice rising

The movement to protect poor and minority neighborhoods from air pollution is approaching a solution unlike any in the nation.
By William J. Kelly

30

Watching your credit

Insurance companies, landlords and employers are looking at your credit history to see if you might be a good tenant, worker or client. Pending bills would make that illegal.
By Rich Ehisen



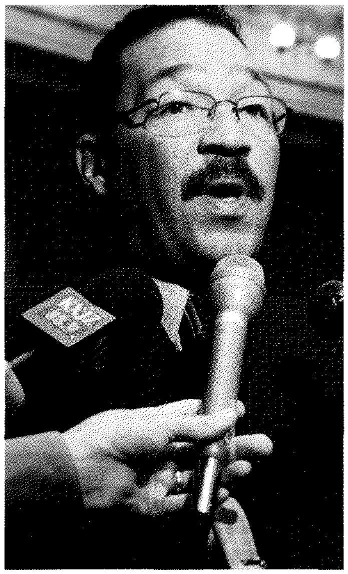
40

War talk

How should lawmakers respond to a war in Iraq? Political and emotional differences kept the issue quiet for weeks. Finally, the Assembly debated.

umbrage

The Speaker. It was late on the Friday before the Legislature's April recess when word came that Assembly Speaker Herb Wesson had canceled the contracts for four political allies and cut the consulting salary of former Assemblywoman Sally Havice — who provided a crucial swing vote on environmental legislation last year — in half. Since *California Journal* reported on the details of Havice's $99,000-a-year job with the Assembly Democratic caucus on *CJ's* web site on March 3, California papers followed with stories of Wesson hiring other former legislators and allies, including: former GOP Assemblyman Mike Briggs (who voted Democratic in two budgets), former Democratic Assemblyman Tony Cardenas, former teachers' union official Alice Huffman and current Pasadena City Councilman Chris Holden, the son of Wesson's former boss, Los Angeles City Councilman Nate Holden. In the end — after a few stories erupted into a cacophony — Wesson finally sent a letter to the Rules Committee authorizing the termination of the contracts. Wesson defended them as "a useful and longstanding practice of this house," but said, "the excessive attention a number of these contracts have garnered has become an unnecessary distraction from the urgent business facing the Assembly."



Davis Recall Attempt

March 26: Signature gathering officially began

Sept. 2: Deadline to submit signatures

897,158: Signatures required

67%*: Rated Davis *UN*favorability

33%*: Voters who *will* sign recall petition:

*4/15 Field Poll

Energy update. California lawmakers recently likened the state's energy market to Frankenstein, a chunky patchwork of rules and fixes that is still operating, but barely. The reason, of course, is the failed deregulation that produced soaring prices and blackouts two years ago. Back then, to quickly recap, state energy officials claimed the market was being illegally manipulated by power producers and, to no avail, they implored federal authorities to intervene. Meanwhile, Governor Gray Davis signed dozens of long-term contracts with power producers to lock in lower rates. That brings us to the latest developments. The Federal Energy Regulatory Commission said recently that 30 private companies manipulated natural gas and energy prices during the energy crisis, and it took steps to refund $3.3 billion, far short of the $9 billion sought by California. The state auditor also reported that California has renegotiated 23 of its long-term contracts for a savings of $5.5 billion. Still, the audit said average power cost under the contracts between 2003 and 2010 is still $15 higher than projected market prices. Lawmakers also responded recently with two bills —one from Democrats that would restore California's regulated power market and another Republican plan that would allow businesses to choose their power suppliers.

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Editor:
David Lesher

Managing Editor:
Jim Evans

Associate Editors:
Rich Ehisen,
Melanie Smith

Contributing Editors:
Claudia Buck, Lou Cannon,
Sherry Bebitch Jeffe, Susan
Rasky, Emelyn Rodriguez,
Marc Sandalow,
Dana Wilkie

Art Director:
Dagmar Thompson

Art Staff: Scarlet Shin

Advertising Representative:
Tim Foster (916) 444-2840

Advertising Coordinator:
Erica Pahl (916) 444-2840

Founding Publisher:
Thomas R. Hoeber

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A.G. Block

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Acknowledgement:

Staffers called to duty

CALIFORNIA REPUBLIC

Because of the Iraq War, two Assembly staffers who serve as reservists were called to active duty this year. Naval reservist Lt. Jeff Danzinger was called in March to the United States Pacific Fleet headquarters in Hawaii as a staff/action officer. Danzinger, who works in the Republican caucus for Assembly Minority Leader Dave Cox, was also called to duty in Hawaii shortly after 9-11. Another Assembly staffer was called to duty in Iraq for a special operations assignment. Jon Waldie, the Assembly's chief administrative officer, said he has not received permission to release the staffer's name. In the Senate, personnel officials say there are no staffers serving in Iraq. However, Lt. Colonel Alvin Kusumoto, who works in Sen. Richard Alarcon's district office, did a one-year tour of duty as a Marine reservist from January 2002 until January 2003. Kusumoto is the highest-ranking Japanese-American in the U.S. Marine Reserves.

People Watch:

Bill Jones turns to ethanol

What do you do when you can't be governor? The answer for Bill Jones is to become an agricultural entrepreneur. Jones, the former secretary of state who lost his 2002 bid for the governor's office, has joined with investors to form Pacific Ethanol Inc. The endeavor is intended to take advantage of new regulations that will produce a gaping need in California for ethanol, a corn-based gasoline additive designed to reduce air pollution. By the end of the year, California's thirsty automobiles will require 613 million gallons of ethanol to meet the new national regulatory standards. And they'll need 1 billion gallons by next year. It's a bonanza for Midwest farmers, who will produce most of the state's ethanol. Only 8 million gallons a year are made by California plants. Jones' venture aims to become the biggest ethanol producer in the state, pumping out 35 million gallons from plants in Visalia and Madera by the end of 2004. "All the elements are coming together to make this work," Jones told *The Associated Press.*

Oil fights:

Change of heart

After three years of trying to open California's coast to new offshore oil drilling, the Bush administration abandoned its legal fight with California and said it will try to buy back oil leases from the companies that own them. The administration had lost twice in federal court on the question of whether the federal government or the state Coastal Commission has the right to review the leases. Less than a year ago, Interior Secretary Gale Norton had told Governor Gray Davis that the federal government would not buy back the leases as it had in Florida (where President Bush's brother, Jeb, is the governor), saying, "Florida opposes coastal drilling and California does not." In an apparent change of heart, Norton said in a statement after the decision, "Our administration ... understands the importance of this issue to the people of California."

Quotables.....

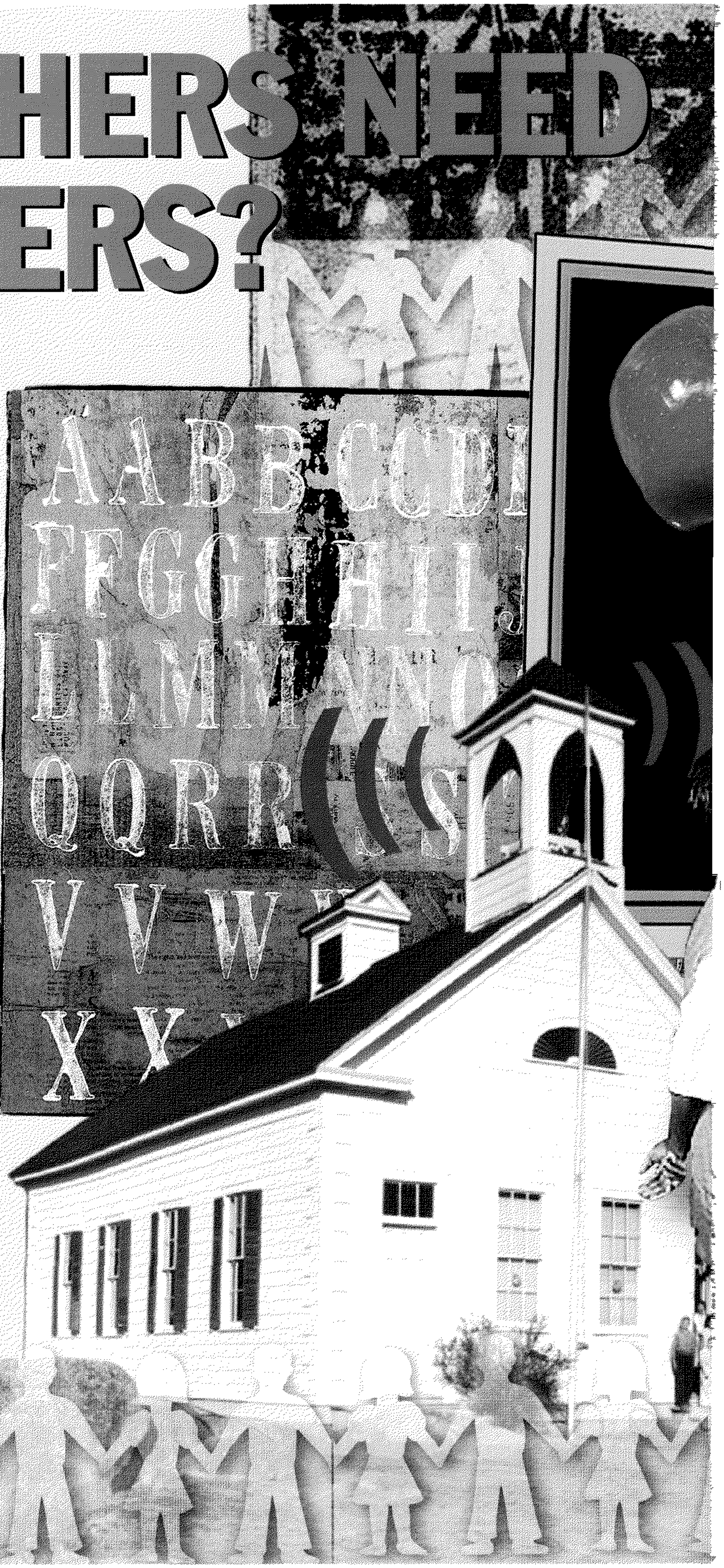
"This is not time for a political debate. This is a time to have a business-management approach."

— Finance Director Steve Peace on the budget

DO TEACHERS NEED COMPUTERS?

Not long ago, the popular thinking was that our children will fall behind if they don't have access to as many computers as possible. Today, a lot of those computers are gathering dust.

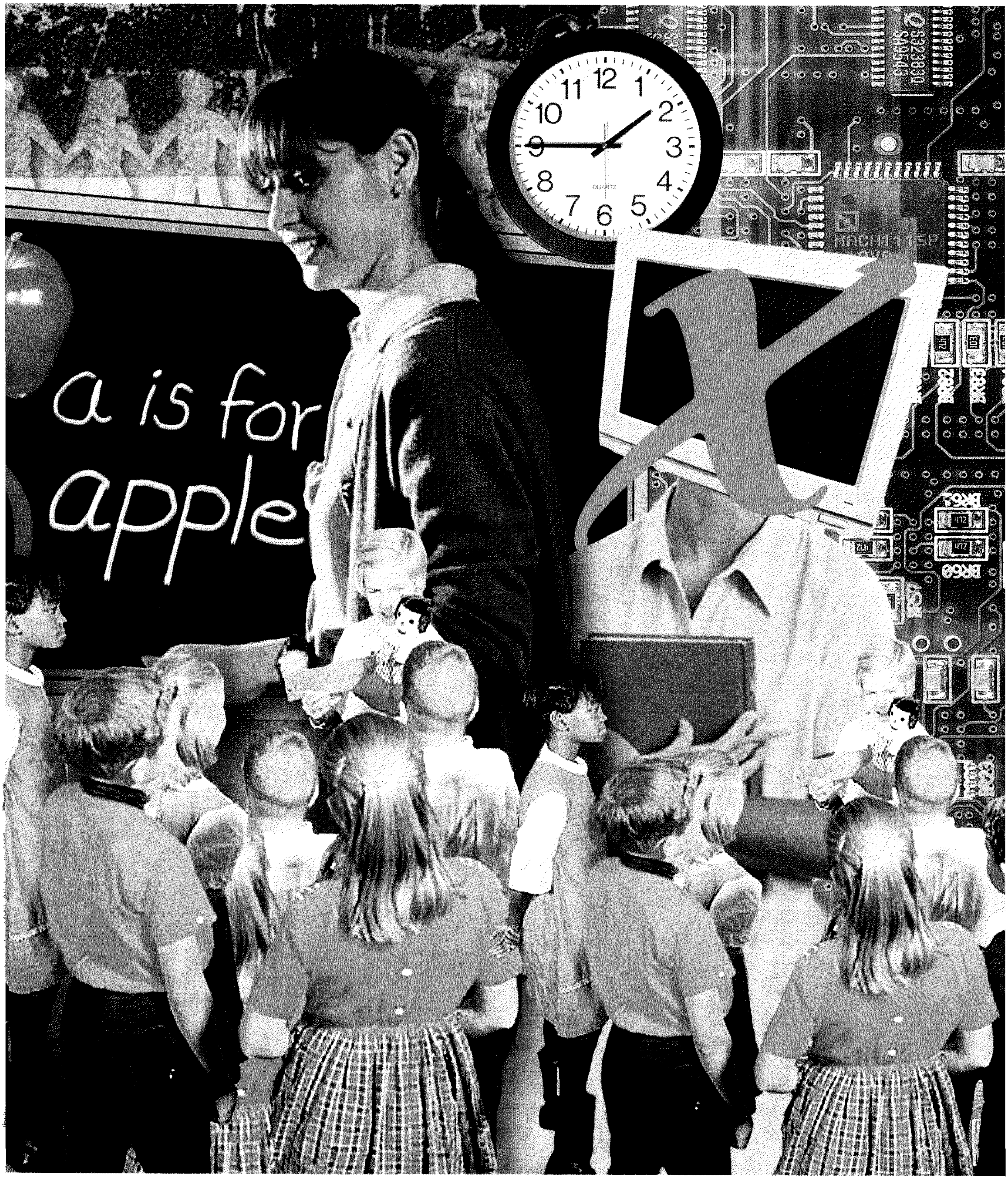
By Anthony York



Just six years ago, California public schools were scrambling to catch up with the high technology boom. Almost every state in America had more computers in the classroom than California, and educators warned that dramatic steps were needed or students would be left behind. Governor Pete Wilson responded with a $1 billion plan to wire the schools, while the state superintendent of schools countered with a $7 billion proposal.

Today, while educators still see a value to computers in the classroom, a lot of the early machines that were dropped into classrooms without teacher training, technical assistance, spare parts, Internet connections, education software or curriculum guidelines are now "gathering dust," said Gary Bloom, associate director of the New Teacher Center at the University of California, Santa Cruz.

"As I visit classrooms and schools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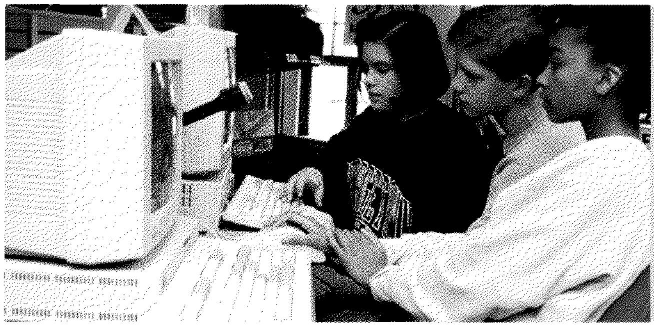
around the state, more often than not we see computers are not being utilized," Bloom said. "In many cases, the investment in technology was not well thought out. Computers were purchased without a clear sense of how the [technology] was going to be used."

Now that the anxious scramble to computerize classrooms has abated, educators are working to determine how computers should fit into the day-to-day curriculum. So far, it's been a difficult topic. In some cases, such as remote teaching or foreign language instruction, there are clear benefits to computers. But even with the proper support and equipment, there are still questions about whether computers can improve traditional teaching methods.



"The emphasis over the last couple
schools. The question
classroom aid in this? Does it

The answer was even elusive in a study from the foundation sponsored by Microsoft Chairman Bill Gates.

"What does research say about the effectiveness of computers in schools?" concluded the report from the Bill and Melinda Gates Foundation. "Policy makers and educators who ask the broad question ... are faced with the problem of asking a question that has many potential answers."

Since 2000, the California Department of Education has conducted an annual survey to determine how computers are used in public school classrooms. The findings reveal a number of obstacles that keep computers from being used effectively.

The 2002 survey concluded that while most schools have acquired new computers and high-speed Internet access, "new challenges and obstacles have arisen." The report cites a critical need for trained technicians to repair and maintain computer equipment in schools. Often, however, it said districts cannot compete with private sector salaries for technical support. The report also says that while "teachers are rapidly developing basic computer competencies, many are still learning about ways to integrate technology into the curriculum in order to impact student learning."

One of the biggest problems in realizing the full potential of computers in schools may be the teachers. With the rapid influx of technology in California's classrooms, it has been difficult for teacher training to keep pace. With teacher shortages brought on by a spike in elementary and high school enrollment and initiatives like the state's class-size reduction program, many teachers are thrown into classrooms with minimal training. With a shortage of teachers, bringing educators up to date on the latest technology and finding ways to use that technology in the classroom often takes a back seat. The result is that expensive computers go unused.

"How do you use computers to teach the material?" asked Wayne Shimizu, a spokesman for the Department of Education. "The challenges are training teachers how to use computers, training administrators how to support them, both in terms of turning the nuts and bolts of the computers, as well as the curriculum support."

Bloom suggests that the integration of computers in the classroom would have been more effective if the teachers were equipped first, and then students. "The push should have been first to get computers in the hands of teachers to use as a professional tool for their own planning," he said. "The ball was largely dropped there."

Experts agree that bringing teachers up to date remains a huge obstacle to integrating computers as a pedagogical tool.

"Teacher training is always a concern," says Jeffrey Fouts, executive director of the Education Research Center at Seattle Pacific University and author of the Gates Foundation study. "Without extensive professional development on the use of technology, the technology will basically go unused in the classrooms. We know that very clearly. Just buying a bunch of computers isn't going to accomplish very much."

Fouts said that at least one-third of the money dedicated to updating classrooms with computers and high-speed Internet access should be dedicated to training teachers about how to use the new equipment. In California's digital high school program, about one-sixth of the money is dedicated to teacher training.

While there are opportunities for teachers to receive additional training, through the California Technology Assistance Program and other federal, state and local grants, that training remains optional, Shimizu says.

"Certainly from the state perspective, it's optional," Shimizu says. "A lot of it comes down to local leadership; if a district decides this is really going to be a priority to bring teachers up to speed on the new technology."

Shimizu says the state is following guidelines set forth in a 1992 master plan for education technology. That plan established a general road map for how the state should update its classrooms. Most of the guidelines are vaguely worded, however, such as the goal to "provide an array of information technology devices for all learners in each of the four public educational segments as appropriate to the students' learning environments, needs, and particular instructional programs."

There is also a question of whether computers are good for all students. Computers have proven helpful in helping students learn a foreign language or diagram an atom. But Johnny Hansell, a third grade teacher at San Francisco's West Portal School, is skeptical of the benefits of computers for younger students.

> **of years has been to a high standards environment in**
> **for the computer people is 'How do the computers in the**
> **facilitate the move to a high-standards environment?'"**
>
> **— Jeffrey Fouts, Education Research Center**

Hansell's class has a computer for every five students. But he says computers in his classroom are not used to help students learn reading, writing or math. "I use computers to teach some basic typing skills, and some basic word processing things like formatting documents," he said.

Hansell is hesitant about relying too heavily on computers for his young students. "They go home and sit in front of screens," Hansell says. "I understand there's a political desire to buy stuff, but just because you get this stuff into the classroom doesn't necessarily mean it's going to help education."

Hansell's sentiment is supported by other teachers, according to a number of recent studies.

One survey conducted by the Milken Foundation found only 58 percent of California teachers said they strongly agreed with the statement that it is important to integrate technology into the curriculum. Only 30 percent said technology helped their students learn.

Those results were not surprising to Fouts. "The tendency for educators to tout first one innovation and then another, and the failure of these innovations to make any marked improvement in student learning, has been well documented," he said.

Bloom, at UC Santa Cruz, says one of the problems is a shortage of good software programs for younger students. And while use of computers may be limited in Hansell's classroom, Bloom says Hansell is doing more with computers than most elementary school teachers.

"These computers were put in place with no sense of how they'd be useful," says Bloom. "If you were to look in most elementary school classrooms today, the computers would mostly be off. A lot would have stuff draped over them."

During the early- and mid-1990s, the measure for success in education technology was limited to simple statistics like computer-to-student ratios and the number of classrooms wired for the Internet. In 1997, when Governor Wilson offered his plan for computerizing the classrooms, California's computer-to-student ratio ranked 45th in the nation, up from 50th the previous year.

In the latest reports, the number of California schools connected to the Internet grew from 80 to 96 percent between 2000 and 2002, according to a survey conducted by the state Department of Education and the California Technology Assistance Project. The state's computer-to-student ratio has fallen from one computer for every seven students to one for every 5.3.

Since the rush to computerize classrooms, education reform has shifted its focus to test results and teacher accountability. As a result, the measure of success has changed for computers in the classroom.

"The emphasis over the last couple of years has been to a high standards environment in schools," Fouts says. "The question for the computer people is 'How do the computers in the classroom aid in this? Does it facilitate the move to a high-standards environment?'"

Measuring how computers are helping student achievement is difficult. With the flurry of state and federal reforms over the last few years, researchers say it's hard to isolate the impact of a single change, like computers, on student performance. And while there is anecdotal evidence that computers may help spike students' interest in the classroom, there is much debate about whether or not the millions of dollars spent on making computers part of primary education is worth the cost.

Now, of course, there is a wrinkle — the state's budget crunch. Hard financial times have forced educators to prioritize their needs as districts face massive budget cuts. The fiscal squeeze is further hampering efforts to integrate computers into daily lesson plans. Budget shortfalls will force cuts in school staff, and those cuts are likely to come in areas deemed as electives — subjects or areas where students' performance will not be tested. That means art and music as well as computer support.

In San Francisco, the district is planning to fire more than 200 technology specialists because of budgetary shortfalls. Those cuts show, better than any research or survey, where computers are on the list of educators' priorities. As Hansell says, "They are getting rid of anything they can that's perceived as extra."

Anthony York is a freelance writer who covers California issues. Comments may be sent to **comments@californiajournal.com**.

Wiring California's classrooms

Technical support

In many schools, a secretary or teacher is assigned to do double-duty as the technical support staff or the computer training staff. These figures show the extent of specialized employees to perform those functions.

0.29

Technical support personnel per 100 computers

0.34

Average full-time computer training personnel per school

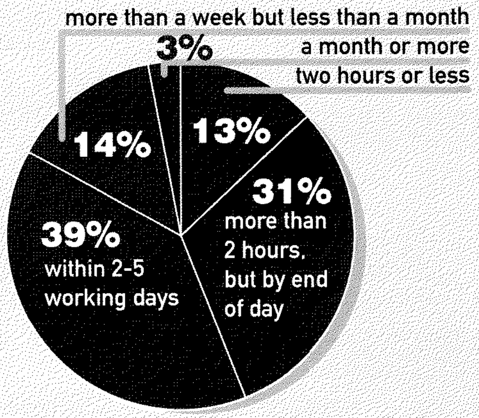
62%

Percent of schools with no certificated technical support

50%

Percent of schools with no certificated computer training personnel

Computer down time

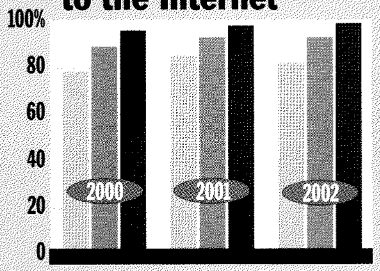


Most broken computers are repaired within a week, and nearly half are fixed within a day. Officials say the response time varies based on the skill and availability of technicians.

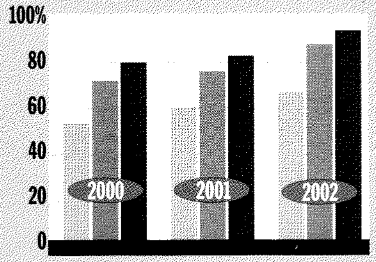
Sources: California Dept. of Education and California Technology Assistance Project

Key
Elementary ▨
Mid./Jr. High ▨
High School ■

Schools connected to the Internet

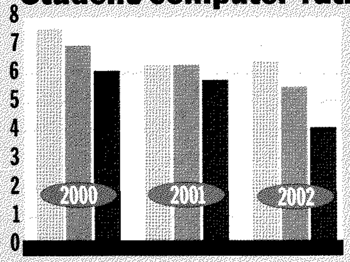


Classrooms connected to the Internet

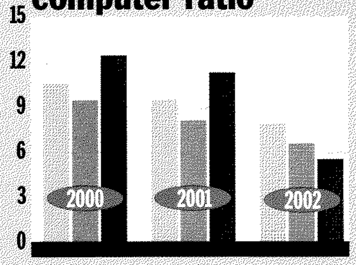


"We have come a long way," according to the 2002 California School Technology Survey. Today, almost every school and classroom is wired to the Internet and the number of computers per student has nearly doubled in two years.

Student/computer ratio



Student/multimedia computer ratio



Think all they do is get cozy on the bus?

Think again. Over half of all teens report having sex before they graduate from high school.

You may be surprised to learn that many teens don't consider oral or anal sex "having sex." They are sadly misinformed, assuming that they are doing the "right thing" by preventing pregnancy – and protecting their virginity.

While we all applaud the drop in teen birth rates, the increase in sexually transmitted infections indicates that sexually active teens need accurate information about how to protect their health. May is Teen Pregnancy Prevention Month – a good time to remind lawmakers and parents of the importance of providing accurate, comprehensive sexuality education in our schools.

To find out what you can do, visit our web site at www.letsgetreal.org
Teen pregnancy is also an adult problem. Let's solve it together.

GET REAL!
ABOUT TEEN PREGNANCY

The "Get Real About Teen Pregnancy" public education campaign is funded by a grant to Ogilvy Public Relations Worldwide from The California Wellness Foundation.

Online companies have chafed at the suggestion that they should collect sales tax, saying the mix of tax rates in different jurisdictions would make collecting taxes difficult. But now, in tough budget times, California legislators are focusing on uncollected e-commerce money in a bid to level the playing field between Internet retailers and those on Main Street.

TIME TO TAX

By Miguel Helft

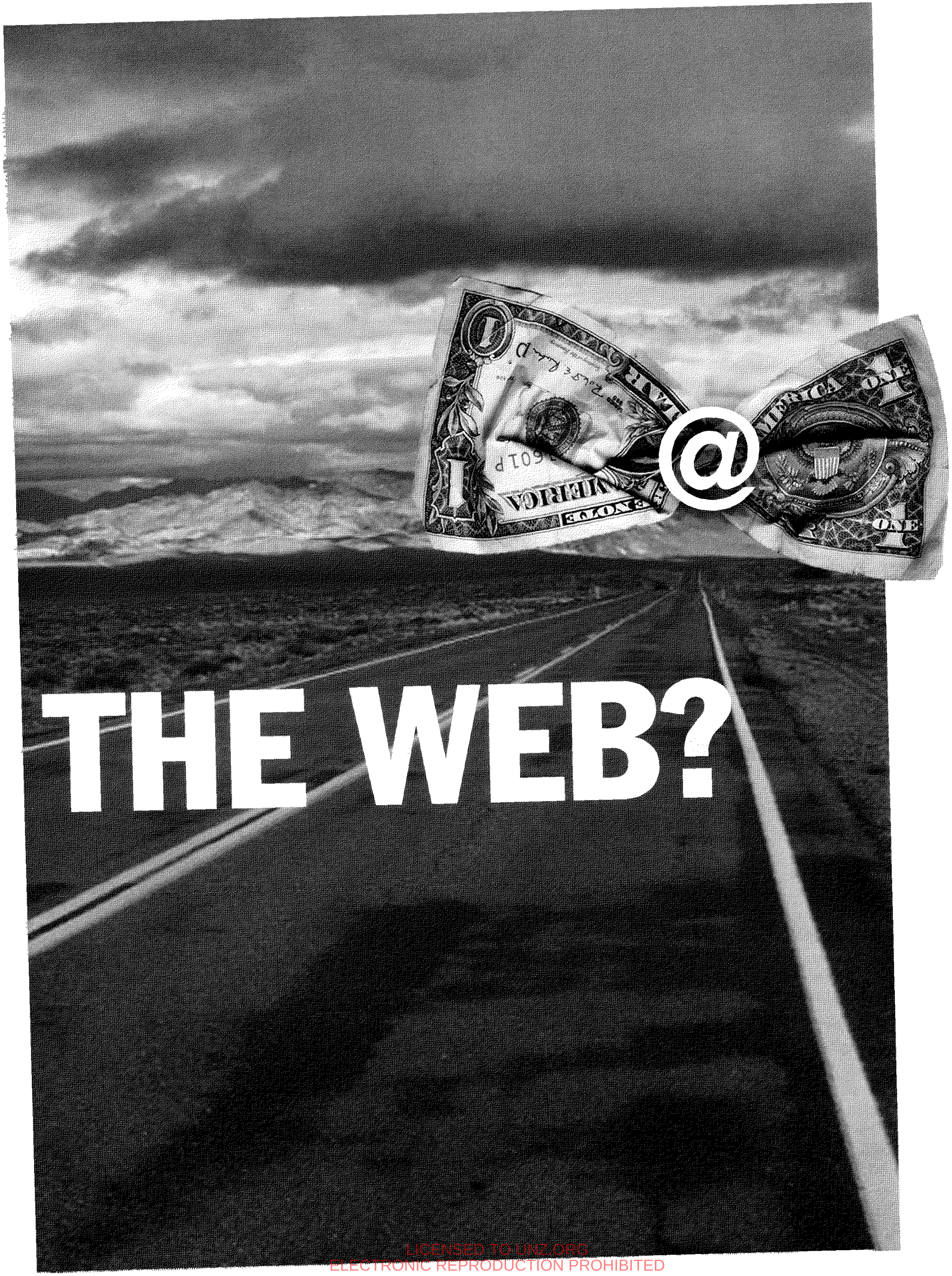
Each year at tax time, Annette Nellen goes through a routine most Californians would find a bit odd. First, she scours her credit card records looking for any items she bought from out-of-state Internet or catalog retailers. Then, she divides those purchases into two categories: items on which she was charged sales tax, which she ignores; and items she got tax-free, which she dutifully adds up.

Last year, the tax-free purchases came to around $2,450. As she does each year, Nellen multiplied the total by 0.0825 to calculate the 8.25 percent sales tax rate in Santa Clara County, where she lives. Finally — and this is the odd part — Nellen wrote a check for the result, about $200, to the California Board of Equalization and mailed it in.

If it sounds like self-inflicted punishment, it isn't. "It's a legal obligation," says Nellen, a professor in the department of accounting and finance at San Jose State University.

Indeed.

Out-of-state purchases are taxable under the use tax, a complement to the sales tax that applies to items bought outside of California (out-of-state purchases). In fact, every state that has a sales tax also has a use tax, Nellen says. Collection of the use tax requires consumers to voluntarily report it. Because it is extremely difficult, if not impossible, for the state to monitor compliance, it goes largely uncol-



THE WEB?

lected.

Nellen says that if more Californians paid the use tax, the debate over Internet sales taxes would take an entirely different tone. Virtually every time the issue comes up, politicians counter with what has been a rallying cry: Lets not impose new taxes on the Internet. Yet, there's nothing new about the use tax. It was first imposed in 1935. The various moratoriums on new Internet taxes enacted by Congress and state legislatures were never meant to apply to the sales tax. They simply prohibited states from imposing taxes on things like Internet access and digital downloads.

If consumers paid the use tax regularly, no politician would get away with calling it a new tax, Nellen says. The more mundane and less politically charged debate would be about who ought to collect it — the consumer or the Internet retailer.

"A lot of the debate comes from a poor understanding of the use tax," Nellen says. "People are seeing Internet sales tax as a new tax, but it has existed for decades."

Renewed debate

In California and elsewhere, the debate over Internet sales tax is raging once again. With state budgets deeply in the red, politicians are looking for every source of revenue they can get their hands on. The Internet is no exception. But the debate is also being fueled by a growing sense that brick-and-mortar retailers and Internet retailers are not competing on equal terms.

"We are moving a significant amount of commerce from Main Street to the Internet," says state Senator Debra Bowen (D-Marin del Rey). "[Internet retailers] have a big pricing advantage over businesses that pay California wages to California citizens. I think it's unfair."

With the Internet industry much weaker than the last time online sales taxes were debated, online retailers are certain to have fewer defenders. Still, getting the likes of Amazon.com or Dell — to name just two of the largest Internet retailers that don't collect sales tax in California — is not likely to be quick or easy.

"We are not opposed to taxation of remote sales on philosophical grounds," says Paul Misener, vice president of global public policy at Amazon. For a company like Amazon, collecting sales tax is just too difficult, Misener adds.

Misener has a point. He also has the law on his side. In 1992 the United States Supreme Court ruled that mail-order retailers could not be forced to collect sales tax on purchases made from states where the retailer didn't have physical presence, or "nexus."

Behind the Court's decision is a sales tax system that has grown into an unruly mess. Some 7,600 tax jurisdictions not only have different tax rates — that's the easy part — but also tax different items differently. In Wisconsin, for example, fruit juice is exempted from a sales tax on soft drinks, but only if it's 100 percent pure. In other states, drinks with at least 50 percent juice are exempted. Go figure. In Colorado, a single zip code near Denver is reported to have five different tax rates and five definitions of what should be taxed.

The Court ruled that requiring a mail-order retailer to navigate that maze would represent an undue burden and an unconstitutional restraint on interstate commerce. But the Court decision left it to Congress to revisit the issue, if the sales tax system was sufficiently simplified. In 2000 a coalition of 35 states and the District of Columbia joined together to do just that. Their effort, called the Streamline Sales Tax Project, came up with a preliminary set of rules to simplify the sales tax last November.

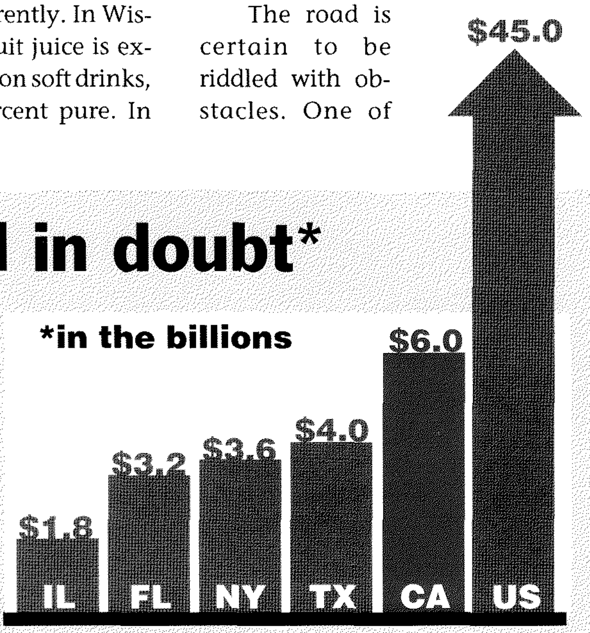
It's only the first step. Before they can take effect, the new rules have to be approved by the legislatures of at least 10 states, representing 20 percent or more of the population. Once they are implemented, governors, state legislators and business groups will have to ask Congress to enact legislation that would allow participating states to mandate sales tax collection from retailers in other states, says Diane Hardt, tax administrator for the Wisconsin Department of Revenue and co-chair of the Streamline Sales Tax Project.

Obstacles

The road is certain to be riddled with obstacles. One of

Web tax numbers still in doubt*

When a couple of University of Tennessee professors in 2001 predicted, right, that in 2006 some $45 billion in e-commerce taxes would go uncollected in the United States ($6 billion in California alone), Internet tax advocates took the figures and ran. The numbers are hardly conclusive, however. In March of this year, the Direct Marketing Association said that the amount of uncollected taxes on e-commerce would be $3.2 billion by 2006 (The DMA is a trade group that represents mail-order catalog companies — which play by the same tax rules as Internet sellers). The actual amount is likely somewhere between the two figures.



Source: University of Tennessee, Center for Business and Economic Research

"[Internet retailers] have a big pricing advantage over businesses that pay California wages to California citizens. I think it's unfair."

— Senator Debra Bowen

Senator Debra Bowen

them is the absence from the sales tax project of some key states, including California. In 2000 Governor Gray Davis, who has opposed sales tax collection on Internet purchases, vetoed a bill that would have required California to take part in the tax project deliberations.

Several politicians are pushing again for California to participate. Bowen has introduced a bill, SB 157, that would make California a voting member of the project. A spokeswoman for Davis says the governor has not taken a position on Bowen's bill, but is "open to looking at it" in the larger context of structural reform of California's tax system. Meanwhile, the Board of Equalization, under the leadership of its new chair, Carole Migden, voted in March to join the sales tax project as an observer.

Whether or not to join the other states ought to be a fairly uncontroversial decision, but it isn't.

"People have suggested that [the streamlining effort] is a panacea," says Misener. "This needs to be calibrated; it is a long way off and may have serious unintended consequences." Misener argues that existing members of the project have already made many decisions that affect not just remote sales but every item taxed in California. Many could have adverse effects on some California industries and on state revenues. What's more, Misener says, the streamlining project hasn't gone far enough in simplifying the sales tax. That's the main reason Amazon is arguing against it, he adds.

But Bowen says there is nothing wrong with getting a seat at the table. "We need to analyze what issues it presents for California," she says. But if California remains on the sidelines, it will have to "accept or reject the whole thing, rather than have a voice."

How much?

Perhaps the most important question in the debate over Internet sales tax is just how much goes uncollected. Not surprisingly, the figures vary wildly depending on who is counting.

Supporters of tax collection often refer to two studies from the University of Tennessee. Using projections from Forrester Research, a market data company, the studies concluded that the uncollected tax on e-commerce nationally amounted to $13 billion in 2001, and could rise to about $55 billion by 2011.

The Direct Marketing Association, an industry group representing Internet and catalog retailers that is fiercely opposed to sales tax collection, countered with its own study based on Commerce Department data. It pegged the uncollected sales tax for 2001 at $1.9 billion nationwide. Uncollected tax, the study concluded, will not exceed $4.5 billion by 2011 — less than 10 percent of the University of Tennessee figure. (Neither study counts the uncollected tax from catalog and mail order purchases, which would also be affected by a change in the law.)

The truth might be somewhere in between. What's certain is that online

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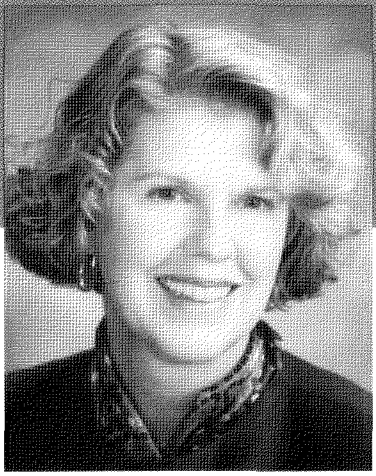
> **"We ought to get a system in place so everyone plays by the same rules. We want to be sure that people who are producing jobs here in California have a level playing field."**
> **— Senator Deirdre Alpert**


Senator Deirdre Alpert

commerce is growing at a far faster rate than overall retail sales. Unless collection of Internet sales tax becomes the norm, governments will miss out on an increasingly larger portion of the sales tax. Whatever the amount, the most vocal supporters of Internet sales tax collection for the past several years have been independent retailers, particularly bookstores, whose very survival was threatened by the success of online booksellers such as Amazon and others. Not only did the online stores have access to unlimited inventories and discount deals with distributors that few independent shops could match, they also had a 5 percent to 8 percent price advantage by virtue of not collecting sales tax.

Politicians, however, were far more interested in pleasing the cash-rich and more powerful Internet industry. The pleas from the independent stores fell on deaf ears. That power dynamic began to tilt in the other direction as the Internet bubble burst. It tilted even further, when the pro-tax contingent rallied a new powerful ally — the nation's largest retail chains.

In the early days of the Internet, many of the national retailers also felt the threat from fast-growing online competitors. To compete with the newcomers, chains such as Barnes & Noble, Borders, Toys "R" Us and Wal Mart set up independent online subsidiaries. The subsidiaries operated like startups and were able to recruit top talent with the promise of stock options. They also had another advantage: many didn't collect sales tax. Barnesandnoble.com, Walmart.com and others claimed that because they didn't have "nexus" in most states — only their corporate parents did — they were not obligated to collect sales tax. The argument served their business goals well, as price comparisons were only a few clicks away, and a 5 percent to 8 percent surcharge would have been a killer.

But the strategy quickly backfired. As retailers began to take advantage of online-offline synergies — allowing online orders to be picked up, or returned, at the offline store, advertising the online store at the retail location – many state agencies, and a few politicians, cried foul. In California, the Board of Equalization took Barnesandnoble.com and others to court over uncollected taxes. In 2001 Migden, then an Assembly member, authored a bill that would have closed the subsidiary tax "loophole." The bill passed both houses but was vetoed by Davis.

Still, the retailers remained at odds with many states until this year. In February, they reached a broad settlement with 38 states and the District of Columbia. In exchange for a release in liability for past uncollected taxes, the retailers agreed to begin collecting sales tax in those states. The change has turned the national retailers into leading advocates for Internet sales tax collection. "They are leading the charge," says Hardt, of the sales tax project. California was not a party to the settlement. But Senator Deirdre Alpert (D-Coronado) has introduced a bill (SB 103) that is similar to Migden's 2001 bill. It would close the subsidiary loophole and take things a step further. It would vastly expand the definition of "nexus" to include companies that offer service or repair in California.

"We ought to get a system in place so everyone plays by the same rules," Alpert says. Alpert readily admits that one of the targets of the expanded "nexus" definition would be Dell, which is in fierce competition with various California-based computer makers, most notably Hewlett Packard. "We want to be sure that people who are producing jobs here in California have a level playing field," Alpert says.

The bill cleared the Senate Revenue and Taxation Committee in late March but has received a cool reception from the powerful tech industry. Perhaps more important, Nellen and other tax experts suggest the expanded definition of "nexus" might not survive a court challenge.

There's one thing supporters and opponents of sales tax collection by Internet retailers agree: The added revenue will not solve California's fiscal mess any time soon. But momentum against the Internet sales tax holiday is building.

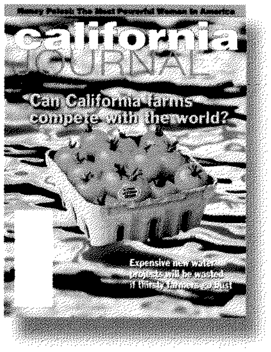
"When you acquire merchandise from someone who sold it over the Internet or a catalog, it uses the same roads, the same transportation system, the same public resources" as items bought at the store, Bowen says. "If your house burns down while you are reading a book you bought online, you don't go online to get a virtual fire truck. You want a real fire truck to show up."

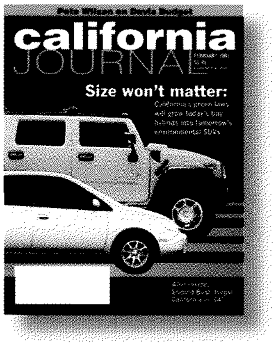
Miguel Helft is an editorial writer at the San Jose Mercury News. *Comments may be sent to* **comments@californiajournal.com**.

American farming first

I have just completed reading your article entitled "Down on the Farm," [January 2003] and you have presented a very dismal picture for the future of California agriculture. The article seemed to be directed at water policy in particular, but any discussion about water policy, especially in California, has to include at least a brief discussion about agriculture, and you did this very well. While California's agricultural industry may compose only 2 percent of the state's $1.3 trillion gross product, those responsible for and involved in the remaining $1.274 trillion in gross product still eat food at least once per day. It is incomprehensible to me that given the state of affairs in the world, and the increasing scrutiny of, and concern for, our food supply, that we as a state, or a nation, could seriously consider shipping the responsibility for our food supply overseas. I guess that a glass of ice-cold milk (from concentrate) might taste OK with our morning bacon (freeze dried from someplace?) and eggs (reconstituted from powder from?) for some people, but I like having most of my food grown, processed and supplied from sources that are the least likely to have that supply disrupted due to war, terrorism, or pursuit of a political agenda. That place would be the United States of America.

Richard Burright
Rio Del Mar Foods, Inc.


california
JOURNAL
Can California farms compete with the world?
Expensive new water projects will be wasted if thirsty farmers go bust



High-speed rail

Thank you for chronicling California's quest for high-speed rail, "California's 200 mph future?" [February 2003]. High-speed rail is an internationally proven solution that will yield positive results here. The article's author, Marc Herman, mentions "there are no American manufacturers" for high-speed trains, a misleading statement that owes more to a lack of orders than a lack of interest and capabilities. Siemens Transportation Systems [whose parent, Siemens, is a German company. — Ed.] maintains its North American headquarters in Sacramento. At this facility, employees assemble light- and heavy-rail passenger trains for American cities, such as Denver, Houston and Los Angeles. It is very conceivable that this facility could play a vital role in Siemens' efforts to provide high-speed rail vehicles to California.

Contrary to the article, there is a maglev project that exists outside the laboratory. In Shanghai, China, the first run of the Transrapid maglev occurred on Dec. 31, 2002. Currently in use for passenger demonstration runs, the Shanghai system will carry passengers from the city's downtown to Purdong International Airport, making the 19-mile trip at speeds of 270 miles per hour. A joint company of Siemens and ThyssenKrupp, Transrapid maglev is being proven in this real world application.

Oliver Hauck
President & CEO
Siemens Transportation
Systems, Inc.

Credit where credit's due

I was confused by a statement in "Teaching Citizenship," [February 2003] by Lisa Plendl in February's *California Journal.* She says San Diego County's FORCE 8 conflict resolution program won a Golden Bell award from "the foundation," which seems to refer to the California Wellness Foundation. Actually, the program won a 2002 Golden Bell Award from the California School Boards Association.

Kristi Garrett, associate editor
California School Boards
Association
West Sacramento

Pension problems

Congratulations to Lynda Gledhill for her excellent article, "Teaching Pays," [March 2003]. In what could be an eye-opening related report, may I suggest that she look into a comparison of pensions of California public school teachers who retired before 2001, when then-Senator Jack O'Connell's bill to improve beginning teachers' salaries went into effect, and those educators who retired since Jan. 1, 2001? In the effort to man the classrooms of the present, the needs of the older retirees have been forsaken. The average Californian is unaware of these gaping discrepancies.

Sid Leube, member
California Retired Teachers Association
Chico

California Journal welcomes letters from our readers. Please sent comments to **comments@californiajournal.com** or write us at 2101 K Street, Sacramento, CA95816. Letters should be no longer than 200 words and may be edited for clarity.

southern exposure

Hahn's new council

by Sherry Bebitch Jeffe

This year, the biggest loser in the Los Angeles municipal election last March wasn't even on the ballot. Results show Mayor Jim Hahn could be faced with maneuvering around two savvy political opponents who were elected to the City Council last March.

Two years ago, Hahn pummeled then-Assemblyman Antonio Villaraigosa to win the mayor's office. The race turned nasty, and animosity between the two camps remains palpable.

Hahn's first major policy decision as mayor was whether to support L.A.'s police chief, Bernard Parks, for a second, five-year term. Parks wanted it; he campaigned for it. But Hahn was not comfortable with the chief's leadership style. Theirs was a relationship devoid of trust. And Hahn allied himself with the Police Protective League, a leading opponent of Parks. The police union, which represents rank-and-file officers, had given Hahn important support for mayor.

Hahn publicly announced his opposition to a second term for the chief even before the Police Commission, the civilian boss of LAPD, began deliberating Parks' fate. The commission, whose members are appointed by the mayor, denied Parks reappointment.

> City Hall arithmetic dictates that Hahn will have to work hard to move his agenda through the council.

Now Villaraigosa and Parks have both won election handily to the L.A. City Council, a traditional mayoral nemesis.

Villaraigosa won't take office until July 1, when he'll replace incumbent Councilman Nick Pacheco. Villaraigosa trounced Pacheco, a Hahn ally, to take the city's largely Latino 14th District. Parks, however, is already rattling City Hall. After amassing 78 percent of the vote, he was immediately appointed by the Council to fill the 10th District seat left vacant when the district's former councilman, Mark Ridley-Thomas, left in mid-term to take a state Assembly seat.

Nary a month after his appointment, Parks was on the losing end of a 10-3 council vote to lift the city's hiring freeze so that the LAPD could comply with the federal consent decree L.A. signed in the wake of police corruption charges and civil rights violations. Implementing the decree is a Hahn priority, and he'd been dissatisfied with LAPD's lack of progress when Parks was chief.

City Hall arithmetic dictates that Hahn will have to work hard to move his agenda through the council. With the exception of Councilwoman Janice Hahn, the mayor's sister, no member of the City Council owes much politically to the mayor. Even Janice Hahn has gone to great lengths to carve out her own political identity. Her vote is not axiomatically in the mayor's pocket.

On the other hand, Hahn's lack of a big mayoral agenda also means that there's not much on which the council can thwart him. And while Parks and Villaraigosa will bring with them high public recognition and political "star quality," other council members may not take kindly to these freshman hot shots making waves and media splashes.

Both Parks and Villaraigosa are being touted as potential mayoral candidates, and City Hall denizens eyeing the mayor's office won't rush to help the newbies.

There could be other collateral damage from the election. City Council President Alex Padilla supported Hahn and Pacheco — both against Villaraigosa. Padilla also supported Hahn's decision on Parks. Several of Padilla's council colleagues— including perhaps Parks or Villaraigosa — are eyeing the president's chair.

But Padilla may have had a bit of luck himself when Assemblyman Tony Cardenas won a council seat in March. Padilla, according to columnist Frank del Olmo, now "will have Cardenas, his former mentor, to help watch his back at City Hall." And there is no love lost between veteran Councilman Dennis Zine and Parks; Zine clashed regularly with then-Chief Parks when Zine headed the police union.

There's some concern that the election results—and there are still two more council races to be decided in a May 20th run-off—may throw L.A. City Hall into turmoil at a time when energies ought to be focused on the current budget crisis and a long list of chronic urban problems.

Hahn, Parks and Villaraigosa all insist that bygones will *indeed* be bygones. "I'm not a person who holds grudges," said the mayor, "and I don't expect that they are either."

As the late Sacramento powerhouse Jesse Unruh observed, "If I'd killed all my enemies yesterday, I'd have no friends today." That's good counsel for Hahn, Parks and Villaraigosa as these three major players take center stage in L.A.'s newest political drama.

Contributing Editor Sherry Bebitch Jeffe is a senior scholar at USC's School of Policy Planning & Development. Comments on her column may be e-mailed to **comments@californiajournal.com.**

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Elected Leaders

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CHAIRMAN

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former US Senator,
San Jose State

Linda Lingle,
Governor Hawaii,
CSU Northridge

Ron Dellums,
former member U.S. congress,
San Francisco State

Kenny Guinn, Governor of Nevada, CSU Fresno
Bill Lockyer, California Attorney General, CSU Hayward
Mike Honda, member U.S. Congress, San Jose State
Mike Thompson, member US Congress, CSU Chico
Wally Herger, member U.S. Congress, CSU Sacramento
Willie Brown, mayor San Francisco, San Francisco State
Elihu Harris, former mayor Oakland, CSU Hayward

Sports Leaders

Joe Morgan,
Hall of Fame
baseball player,
ESPN broadcaster,
CSU Hayward

Billy Jean King,
tennis champ,
Cal State Los Angeles

Tony Gwynn, former player San Diego Padres, San Diego State
Bill Walsh, former coach and general manager, San Francisco 49ers, San Jose State
Jeff Garcia, quarterback, San Francisco 49ers, San Jose State

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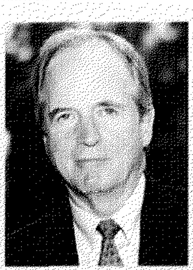
Business Leaders



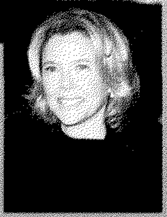
Peter Ueberroth,
former baseball
commissioner,
organizer 1984 Olympics,
1985 Time Magazine
Man of the Year,
San Jose State

Paul O'Neill,
former U.S. Secretary
of the Treasury,
CEO Alcoa Corporation,
CSU Fresno

Mark Mastrov, founder of 24-Hour Fitness, CSU Hayward
Tammy Savage, Manager of Business Development, Microsoft, CSU Fresno
Steven Bolenbach, CEO of Hilton Hotels, CSU Northridge
Joy Covey, former Chief Strategy Officer, Amazon.com, CSU Fresno
Roger Valine, founder/chair, Vision Service Pla
CSU Sacramento
Anthony Ghio, restaurateur, San Diego State

Cultural Leaders

Steven Spielberg,
director,
CSU Long Beach



Anette Benning,
actress,
San Francisco Stat

Luis Valdez,
playwright, founder
El Teatro Campesino,
San Jose State

Danny Glover, actor, San Francisco State
Amy Tan, author, San Jose State
Kevin Costner, actor, CSU Fullerton
Art Linkletter, TV personality, San Diego Stat
Joan Lunden, former Good Morning America anchor, CSU Sacramento
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NOXIOUS NEIGHBORHOODS

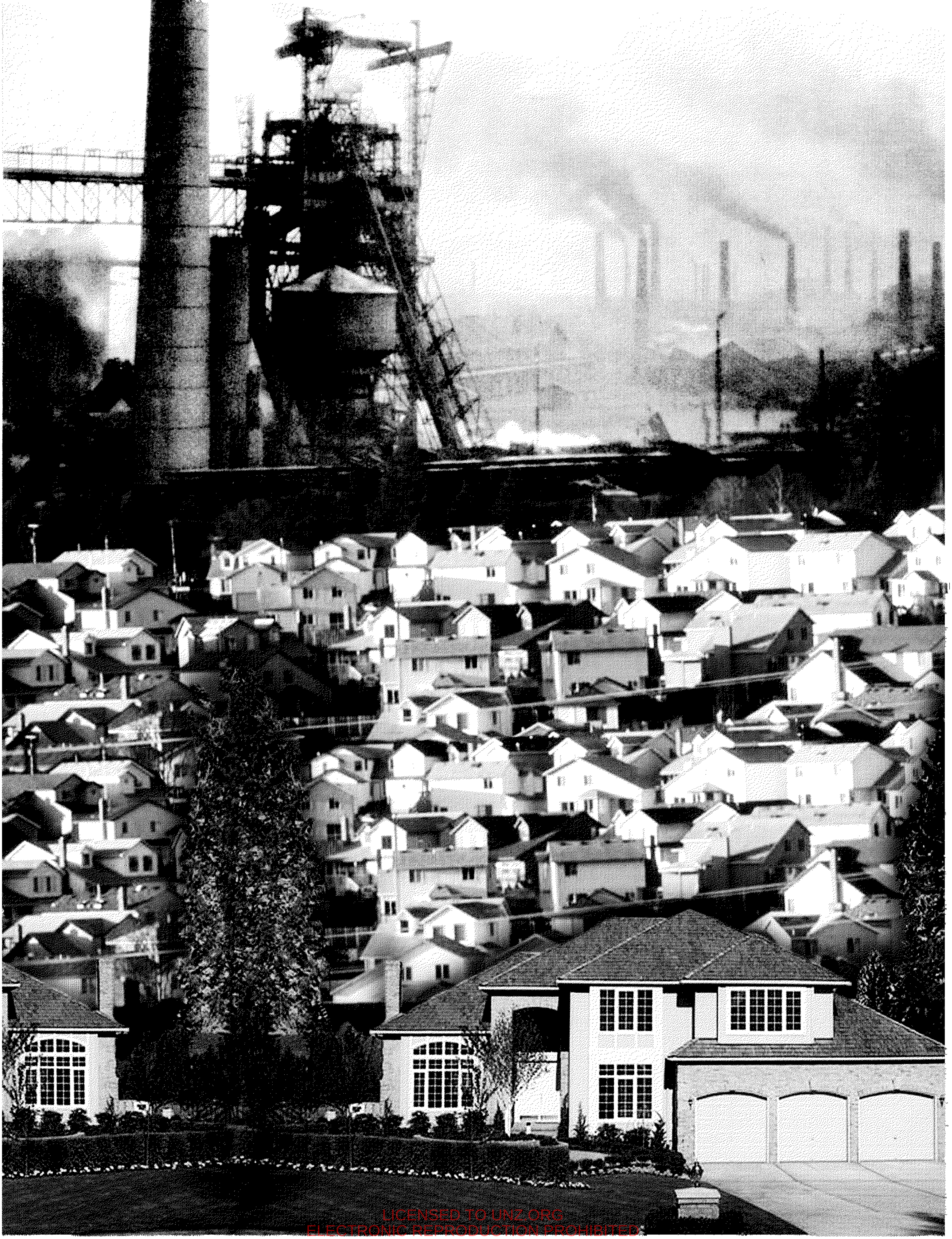
By
Willliam J. Kelly

Just off Washington Boulevard in the City of Commerce lies the Bandini neighborhood. At first glance, it looks like many other residential areas in Southern California. Rows of houses with well-trimmed lawns line the streets. Early in the morning, people depart in their cars for work. Things are quiet at the local elementary school where the children have settled down for the morning lesson.

However, to reside in Bandini is far different from living in most other places in California. Just beyond the neighborhood's residential streets lie two of the busiest inter-modal shipping facilities in the nation — one operated by the Burlington Northern Santa Fe Railroad and the other by the Union Pacific Railroad. More than 30,000 trucks come to these yards each day, carrying shipping containers between the trains and the ports of Los Angeles and Long Beach, which combined are the biggest and busiest in the United States. The neighborhood also lies along Interstate 710, a freeway that Caltrans has proposed double decking with special lanes to accommodate a projected doubling of freight trucks serving the port complex over the next 20 years.

California's growing environmental justice movement is pushing the scientific and social frontier with an unprecedented plan to regulate the cumulative impact of pollution on targeted neighborhoods.

The environmental assault here is palpable. The freeway roars, trucks rumble along Washington Boulevard, diesel train engines hum, bright lights in the train yards illuminate the area like a football stadium at night, and even on a blustery day the acrid odor of diesel exhaust pervades the air. Just west on Washington Boulevard lays a row of factories, including a chemical plant, chrome plating facility, and two lead smelting companies. To the east, a refuse-to-energy facility burns garbage to generate electricity across the street from apartments. Chemical drum recycling shops with barrels stacked two stories high are tucked between the factories. Across the Burlington Northern Santa Fe yard is a large rendering plant. Drivers on the congested boulevard — where trucks puff soot while inching toward the freeway — smell whiffs of odors from the many plants, as well an indescribable stench that covers a wide area.



25
Burlington Northern
Santa Fe
Railway
STORM WATER
PARSEC

Stacks from a lead battery recycling plant near the Bandini neighborhood can be seen across the Burlington Northern Santa Fe inter-modal facility in Commerce. Photos in this article by William J. Kelley

Diesel-powered container trucks line Washington Blvd. which runs along the Bandini residential neighborhood.

The Badini neighborhood — where the 2000 census shows that residents are 95 percent Latino, predominantly speak Spanish, have a median annual household income of $33,065, and have a one in five chance of living below the poverty line — illustrates a dangerous flaw in California environmental laws. Scores of environmental justice groups across the state have spent the last 10 years making their case that people of color and low income in California bear a disproportionately high level of exposure to environmental contaminants — from pesticides sprayed on farm fields, which blow into farm worker communities and contaminate well water, to diesel fumes and factory emissions in crowded cities. The dozens of community-based groups, which operate independently of the major environmental organizations, say these exposures have increased the levels of cancer, asthma, learning disabilities, and other diseases in working class and poor communities.

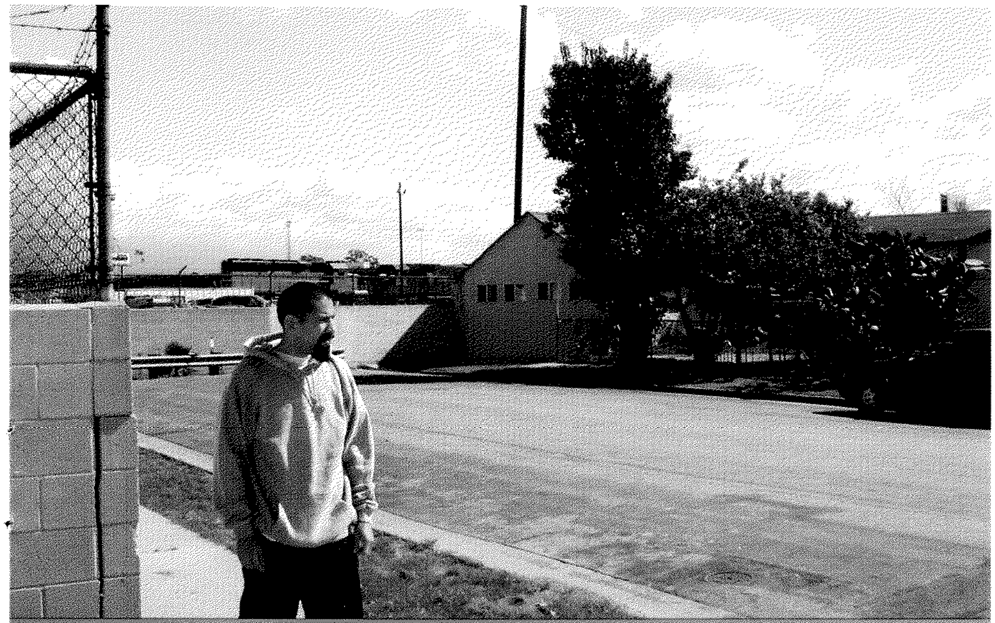
The groups' top priority is to address these unhealthful exposures by changing the current law that allows each individual polluting facility to be measured and regulated separately. Neighborhood advocates want state policy makers to adopt a method for assessing the cumulative impact of several toxic sources on a single neighborhood and using that finding to make development decisions.

They appear to be nearing success. All sides seem to agree that California is on the verge of becoming the first state in the nation to assess and regulate pollution based on the cumulative health risk to a specific neighborhood.

"Health should be a priority and commerce should be secondary," said Angelo Logan, who has organized 100 Bandini residents into a group, known as the East Yard Communities for Environmental Justice. "I grew up in the neighborhood. A lot of my family and friends were sick. Even as a young child I noticed that this is not a normal environment. The pollution in this area was disproportionate to other neighborhoods."

Supported by a modest $10,000 grant from the Liberty pollution on a macro scale, environmental justice groups argue that regulators have neglected micro scale pockets of toxic pollution in working class neighborhoods like Bandini, which are predominantly of color in most of the state. Moreover, they say that, historically, industries and government agencies have found it easier to locate polluting facilities in poor communities because their residents lack the political clout of upscale communities.

"Political power matters," according to Manuel Pastor, who has studied the pattern of location of hazardous waste facility sites and factories that emit toxic pollution in California. "No matter how you slice or dice it, there's a racial disparity," said the University of California at Santa Cruz economist who directs the Center for Justice, Tolerance, and Community.



Angelo Logan of the East Yard Communities For Environmental Justice stands in his neighborhood where homes are close to the Union Pacific Railroad inter-modal facility and surrounded by industries in the City of Commerce.

> "Political power matters. No matter how you slice or dice it, there's a racial disparity."
> — Manuel Pastor, UC Santa Cruz

Hill Foundation, the East Yard group is one of the many grass-roots environmental justice organizations making waves in the halls of the state's environmental agencies. About six months ago, for instance, the group convinced the local air pollution control agency to install a monitoring station in the midst of the Bandini neighborhood in a bid to assess the cumulative risk of cancer and other diseases from all sources of air pollution in the area. The agency has completed the air monitoring in Bandini and after analyzing the samples in its laboratory will report the results in the months ahead. The step, though small, reflects the changing attitude among California environmental regulators toward environmental justice concerns.

Bandini, while different from most California communities, is hardly unique. Throughout urban Southern California, communities of color breathe higher levels of cancer-causing pollutants, such as diesel soot, according to Rachel Morello-Frosch, professor of medical environmental epidemiology at Brown University in Providence, Rhode Island. "We found that there was persistent racial and ethnic disparities in lifetime cancer risks associated with outdoor air toxics exposure regardless of income," she said. In rural areas, low-income families in farm worker communities are forced to buy expensive bottled water to drink because their small community wells have been poisoned by pesticides, according to Raquel Donoso, senior program manager for the Latino Issues Forum in San Francisco.

While state environmental agencies have reduced

To achieve equity, the groups have long argued for a more holistic approach to environmental protection that goes beyond setting limits for individual pollutants and facilities in isolation. Standards, they argue, must take into account the cumulative effect of all pollutants in the environment.

"When you live by it, you can't help but prioritize these issues," said Assemblywoman Cindy Montanez (D-San Fernando), who chairs the new Select Committee on Environmental Justice. Montanez, who was raised in an area surrounded by four freeways and dotted with landfills, is sponsoring AB 392, which would require developers of new projects to analyze cumulative health risk in their environmental impact reports. Senator Gloria Romero (D-Los Angeles) has introduced SB 532, which would set similar requirements.

Even before the legislation, state regulators are already taking steps to make similar changes. Officials at the California Environmental Protection Agency and South Coast Air Quality Management District in Greater Los Angeles are heeding the call to assess and reduce cumulative environmental health risk. "We often compartmentalize our decision making process," said Romel Pascual, assistant secretary for environmental justice at Cal EPA, "but we need to figure out how to look at the community as a whole."

That is why, he said, Cal EPA is soon likely to begin developing comprehensive scientific methodologies to assess cumulative risk from pollution in the air, water, food and soil. The California Air Resources Board already is developing a methodology for assessing the cumulative risk of air pollution, hoping to make the methodology available for use by local air districts and urban planners by the end of the year.

MARK'S Body Shop
AUTO CENTER

Pico Rivera and the South Coast Air Quality Management District licensed Mark's Auto Body shop on Rosemead Ave. which emits paint fumes into the backyards of homes on the street behind it.

In the four-county Los Angeles region, the South Coast Air District is moving beyond assessment to outline policy options for reducing cumulative risk. A white paper outlining staff recommendations to the agency's board is due this summer. An agency study published in 2000 showed wide disparities in the risk of cancer from outdoor air pollution in the sprawling region of 14 million people. The lifetime cancer risk ranged from as high as 1,700 cases per 1 million residents to as low as about 300 per 1 million in affluent Malibu Beach. "The problem is a real one that deserves agency attention," said Barry Wallerstein, executive officer of the South Coast district. "Some communities have higher levels of exposure or risk than we would consider the norm. We have to ask if the regional programs are sufficient."

> "Some communities have higher levels of exposure or risk than we would consider the norm. We have to ask if the regional programs are sufficient."
> — Barry Wallerstein, South Coast district

In a draft of the cumulative risk white paper, the agency outlines a plan to establish an acceptable level of cumulative health risk and a series of new requirements it would impose on sources of air pollution when that level is exceeded in individual neighborhoods. The acceptable level of risk for cancer and other diseases from all sources of air pollution in local neighborhoods is yet to be determined. But one option for reducing excessive cumulative risk would be tighter restrictions on businesses in polluted areas than those applied to the same types of businesses operating in cleaner areas. Also, businesses seeking to locate in areas with high cumulative risk could be rejected or they might face extra requirements, which in some cases may make it more economical to locate in a cleaner location. "What we've asked for is cumulative risk assessment, and we're going to get it," said Carlos Porras, executive director of Communities for a Better Environment. "We're on the verge of developing the first cumulative exposure mechanism for the country."

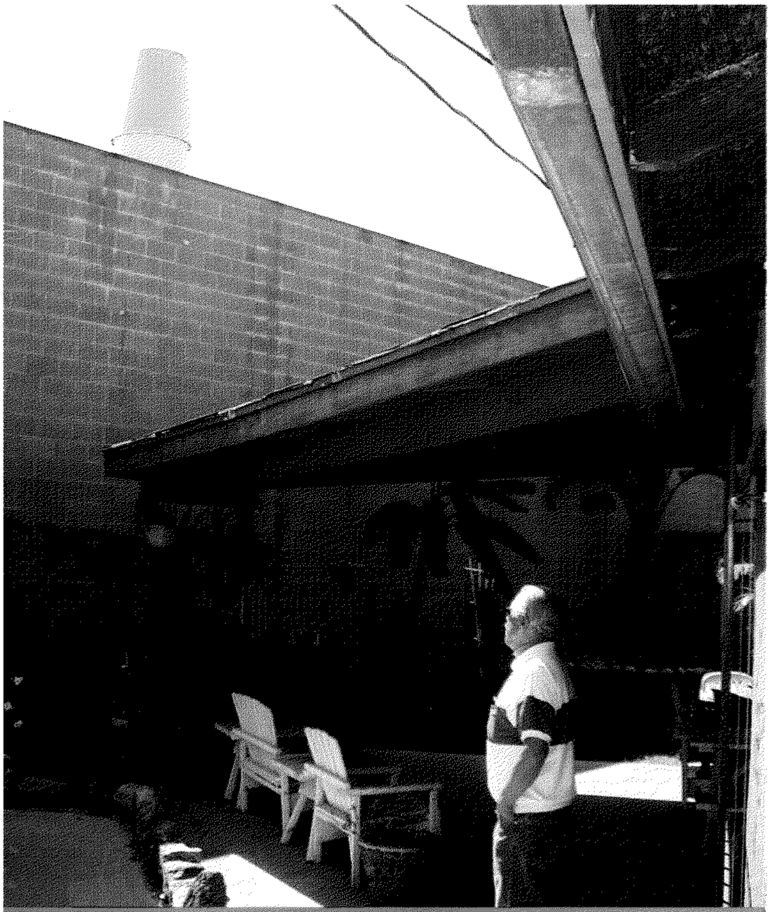
California businesses are supportive of efforts to assess cumulative risk from pollution. "It is important to determine if there are communities being exposed to a much higher level of pollution," said Cindy Tuck, general counsel for the California Council for Environmental and Economic Balance. However, business representatives believe that environmental agencies should carefully identify which communities actually are bearing disproportionate exposure to toxic pollutants before rushing to regulate. "It's hard to start developing solutions until we define what the problem is," said Mike Carroll, an attorney with the law firm of Latham & Watkins, who represents a number of industries. Tuck warns that unless good data on cumulative exposure is developed, the South Coast district's upcoming cumulative impact rules could have "a very serious impact on jobs and new businesses."

Porras, who became one of the state's early environmental justice organizers in 1993, said that compromises would be a reality as the South Coast air district develops its cumulative risk regulations. Yet he said he is "very optimistic" about the prospects of the environmental justice movement today. "In 1993, everybody was still in a state of denial," he said. "To move a state to legislation and regulatory progress that is on the cutting edge of the nation is clearly a success."

Porras originally led a group of residents from the heavily industrialized central core of Los Angeles that was seeking to have the South Coast Air Quality Management District impose tight restrictions on toxic emissions from factories. The casually dressed group of young students, parents and workers carried banners and signs to the hearings on the issue in the early 1990's, but were roundly defeated by the well-dressed business lobbyists armed with overhead presentations and legal briefs.

Not dissuaded by such early defeats, California's environmental justice groups pressed forward, managing to defeat or win mitigations on several industrial projects planned for poor and non-Caucasian neighborhoods.

"The aggregation of experience from siting battles has lead to policy initiatives and policy change," said Luke Cole, one of the first attorneys to practice law in the yet "uncoined" environmental justice field for the California Rural Legal Assistance Foundation in 1989. By the late 1990s, the movement had won the attention of Latino legislators, who managed to enact a series of bills that focused California agencies on environmental justice concerns, according to Cole, who now heads the Center on Race, Poverty and the Environment in San Francisco.



Joe Cabellero, vice president of Residents of Pico Rivera for Environmental Justice, stands in a neighbor's backyard on Maris Street behind Mark's Auto Body shop. The silver stack on the roof of the shop, one of two, emits fumes from painting cars inside.

In 1999, then state Senator Hilda Solis (D-El Monte) shepherded SB 115 through the enactment process to require Cal EPA and related agencies to administer and enforce its programs in a way that "ensures fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations." In 2000, the Legislature enacted SB 89 sponsored by Senator Martha Escutia (D-Montebello), which required Cal EPA to form a working group, aided by an external advisory panel, to identify and address environmental justice "gaps" in existing programs. A later measure, SB 828 sponsored by Senator Richard Alarcon (D-Sun Valley), placed a 2003 year-end deadline on that process.

This summer, the recommendations of the task force will go to Cal EPA Secretary Winston Hickox for consideration, according to Pascual, who is heading the review process. He said he expects that the three leading recommendations will be to:

- Develop a methodology to determine the cumulative exposure to toxic pollutants that Californians receive in the food, water, and air.
- Improve public participation in state environmental policy by involving affected communities at the outset of the decision-making process and providing for real influence.
- Provide technical assistance and grants to environmental justice community groups to facilitate the effectiveness of their participation.

Pascual said that a new state grant program, modeled after a federal Environmental Protection Agency program, would begin providing support to environmental justice groups in the coming year under AB 2312, a bill from Assemblywoman Judy Chu (D-Monterey Park) that was enacted last year. Financial support is helping to level the playing field between environmental justice groups and industry representatives.

"The funds we've been able to provide have really been the life blood for the groups," said Michele Prichard, director of special projects for the Liberty Hill Foundation in Los Angeles, which has provided some $1.5 million in funding to about 50 environmental justice groups since 1996. "Their ability to self-finance this work is very limited. They've been running their organizations off their kitchen tables."

Over the past four years, Liberty Hill also has trained 200 residents interested in organizing grass-roots environmental justice groups, covering such topics as environmental law and science in layman's terms.

Aside from cumulative risk, better integrating environmental impacts with land-use decision-making will become more of a priority for state environmental agencies in the years ahead. "Almost all of the decisions that are most damaging are made at the local level by city councils and county boards of supervisors," noted attorney Cole. Accordingly, Pascual said he expects that Cal EPA and other environmental agencies will become "more engaged" in land-use issues, traditionally the exclusive domain of local government.

At the South Coast air district, Wallerstein said his staff would be "offering more frequent and better advice and creating more awareness for local land-use decision makers." For instance, the agency's draft cumulative impacts white paper envisions requiring builders of new homes, schools and hospitals to notify homebuyers, parents and patients of high cumulative risk. Such notices would discourage builders from constructing homes and schools near factories, freeways and other sources of toxic air pollution, district officials maintain. In addition, AB 1553, which was sponsored by former Assemblyman Fred Keeley (D-Boulder Creek) and enacted in 2001, requires the Governor's Office of Planning and Research to incorporate environmental justice principles into its guidelines for development of general plans by local governments, a process now under way.

In the final analysis, however, state and regional environmental agencies would be limited to an advisory role in land-use decision making. Local city councils and county boards of supervisors will still have the final say on projects.

While environmental justice often is seen as a mainly urban concern, it also is an issue in suburban communities, where land-use decisions have juxtaposed polluting facilities, housing and schools. For instance, in the morning, the stacks of a large auto body repair and paint shop cast a shadow over the backyards of residents on Maris St. in the mostly Latino suburb of Pico Rivera in Los Angeles County. Odors of paint fumes waft into the yards, complain the residents, who have organized a group known as Residents of Pico Rivera for Environmental Justice.

"The city planners do what they want, figuring people up here won't do very much," said Joe Caballero, vice president of the group. He became concerned about the facility when his two granddaughters, who lived in his home for many years, developed respiratory problems and eventually were diagnosed with asthma. For five years, the residents have been fighting to clean up the facility, which is one of five auto body shops in a one-square-mile area full of homes and schools. Recently they persuaded the South Coast air district to form a task force that will seek to address their concerns.

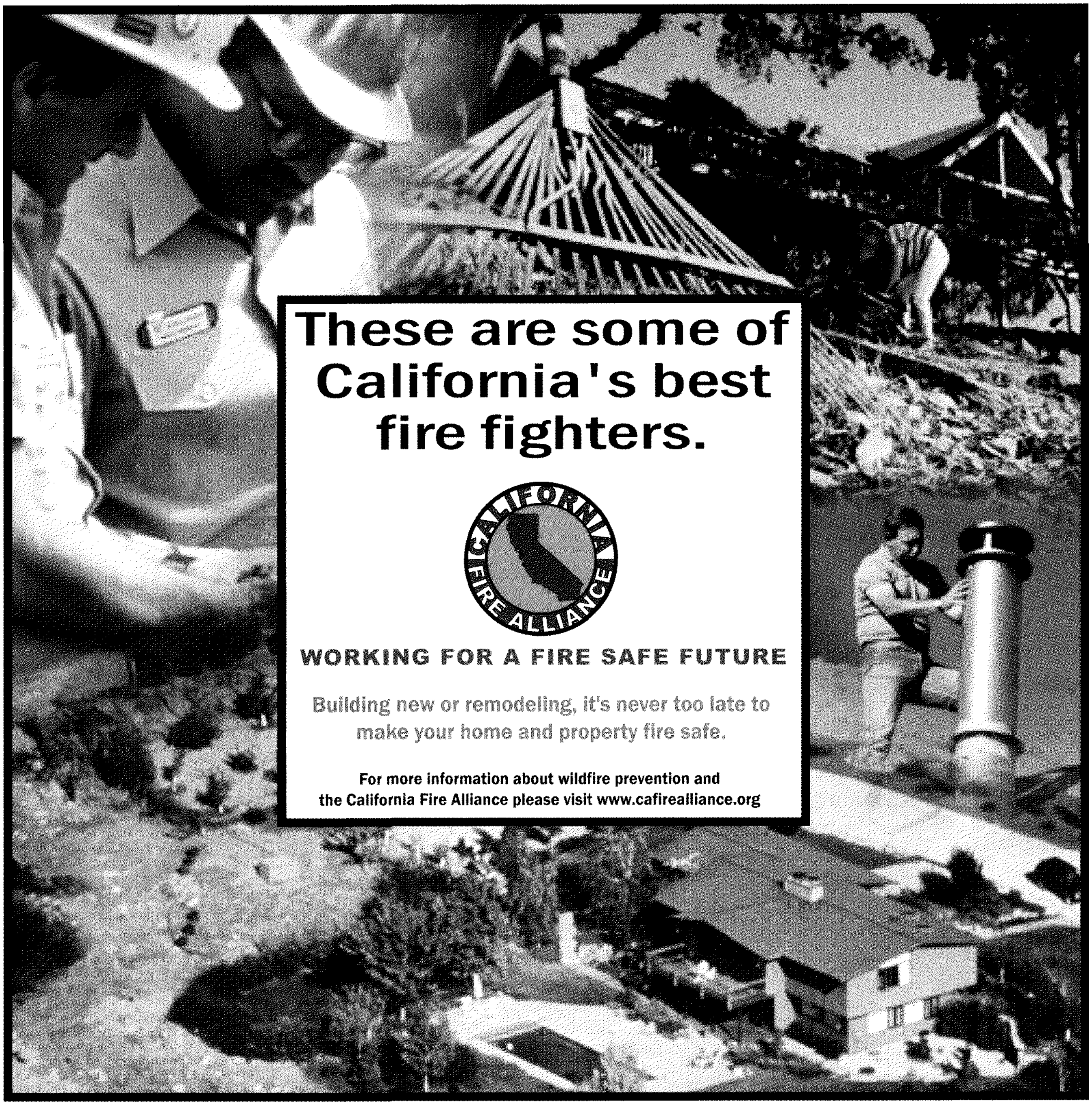
In a moment of reflection, Caballero confided, "There used to be a lot of racism in the past. It's classism now. We've learned a lot. One lesson is to have patience."

Pico Rivera's Caballero, Bandini's Logan, and hundreds of other neighborhood activists surely have learned the virtues of patience through the years. Now their persistence has finally moved California's environmental bureaucracy to focus on the long neglected business of equitable treatment for working class and poor communities.

William J. Kelly is editor and publisher of California Environment Report, *on the web at* www.southlandreports.com. *Comments on this article may be sent to* **comments@californiajournal.com.**

Environmental Justice Bills Enacted in California

Bill (Year Enacted)	Author	Description
AB 1390 (2001)	Marco Firebaugh (D-East Los Angeles)	Requires air districts to target 50% of diesel equipment cleanup funds to environmental justice communities.
AB 1553 (2001)	Fred Keeley (D-Boulder Creek)	Requires Office of Planning and Research to establish environmental justice principles for local general plans.
AB 2312 (2002)	Judy Chu (D-Monterey Park)	Establishes a small grants program for environmental justice groups.
SB 32 (2001)	Martha Escutia (D-Montebello)	Allows local governments to clean up small parcels of land with hazardous waste contamination with oversight by Cal EPA.
SB 89 (2000)	Martha Escutia (D-Montebello)	Established a working group within Cal EPA to identify and close environmental justice gaps in agency programs.
SB 115 (1999)	Hilda Solis (D-El Monte)	Required Cal EPA agencies to incorporate environmental justice into their missions.
SB 828 (2001)	Richard Alarcon (D-Sun Valley)	Requires Cal EPA to close environmental justice program gaps by the end of this year.
SB 1542 (2002)	Martha Escutia (D-Montebello)	Requires the Integrated Waste Management Board to provide local governments information and models for incorporating environmental justice concerns into location decisions for new landfills and for those local agencies to document actions taken to solicit public participation, including by minority and low-income populations.



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Letter from New Hampshire

by Susan Rasky

If, as GOP super-consultant Roger Ailes once observed, a California campaign rally is three people gathered in front of a television set, what is the New Hampshire corollary?

How about organizers from five different presidential campaigns pleading for endorsements of their candidates at the monthly meeting of the "Derry Democrats" — all 13 of them.

This is not an idle comparison. Given the way the primary calendar is shaping up, with more and more states scrambling to schedule caucuses or primaries in early February 2004, California's hope of being a player by moving the presidential primary to March 2 seems futile.

If that's so, it may be worth knowing something about the 211,000 or so registered New Hampshire Democrats who will in effect exercise proxies for their California counterparts on January 27 of next year in the nation's first and most prominent primary. To fully appreciate the weight of that responsibility, the comparable registration figure for California is 7.1 million, which makes each New Hampshire Democrat worth about 34 of the California variety.

> New Hampshirites enjoy a kind of access and connection to political leaders that Californians can only dream about.

The early organizing and courting rituals, which seemed to be well underway in the Granite State just a few months ago, have been stalled by the war in Iraq and are just beginning to pick up again. To observe them, in a high school gym or a state legislator's cozy living room, is to be reminded that New Hampshirites enjoy a kind of access and connection to political leaders that Californians can only dream about.

It is possible for a New Hampshire voter to encounter a presidential candidate multiple times in the local coffee shop. And yes, some Concord matron really did walk up to Howard Dean at a meet-and-greet and tell the former Vermont governor his pants were too short.

Once you get past the civic envy and the hype, New Hampshire's sacred retail presidential politicking isn't exactly what it's cracked up to be. For all the images of candidates strolling through towns that look like Currier and Ives prints, it is the political activists and the reliable donors who get the attention from presidential hopefuls, just as in California. Most New Hampshire voters, like their California counterparts, get information about the candidates and exposure to them through a barrage of television ads in the final weeks of the primary campaign.

But what they also get, which *is* very different from California, is saturation news coverage — in print and particularly on television — whenever candidates visit the state. In practical terms, that means candidates stage grass-roots events for local and, increasingly, national media rather than actually engaging New Hampshire voters. Still, the New Hampshire primary is a rather unique specimen for political scientists.

Professor Constantine Spiliottes of Dartmouth College says his research from the 1996 and 2000 primaries shows that the retail politicking, even in its not-so-pure form, has an impact on New Hampshire voters. They are able to learn, to say more about candidates after a meeting or a rally and are more likely to become involved in a campaign after meeting a candidate.

It must be nice.

Professor Dante Scala of the Institute of Politics at St Anselm's College in Manchester emphasizes a different angle. He says that while New Hampshire voters believe they perform a winnowing function on a large field of candidates, they increasingly see themselves as what he calls "send 'em a message" voters. His research shows that New Hampshire's political demography more and more favors Democratic candidates who appeal to elite and reform-minded voters rather than what he dubs establishment candidates.

In other words, those paragons of civic virtue may pick a candidate who can't win outside New Hampshire. It wouldn't be the first time, and it would be good news for California Democratic leaders who keep reminding national political reporters that by the end of March, not even half the delegates needed for the presidential nomination will have been chosen.

There's no harm in hoping. But with other states moving up in the queue, and money, not voter contact, the real key. Californians will have to take their civic satisfaction where they can get it.

A political rally in California is not three people gathered in front of a TV set. It's three people standing in front of a drive-through ATM.

Contributing Editor Susan Rasky teaches journalism at the University of California, Berkeley, Graduate School of Journalism. Comments may be sent to **comments@californiajournal.com.**

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If you're typically late in paying bills, some businesses think that also means you're a higher insurance risk or a less attractive job applicant. Three bills pending in California would restrict businesses from looking at at your credit history.

WHO'S WATCHING YOUR CREDIT?

CREDIT REPORT

By Rich Ehisen

Most consumers learn early about the importance of building a good credit record. A wallet full of maxed-out credit cards or a reputation for late payments can lead to sky-high interest rates or restrictions on new credit. Many, however, fail to realize how far their credit rating extends and how much that rating can affect areas of their lives seemingly unconnected to their credit cards.

Insurance companies, landlords and even prospective employers now routinely use consumer credit scores to determine how much one pays for insurance, or if a prospect may lease an apartment or be hired as an employee. In some cases, a particularly low credit score can prevent someone from being insured at all. This practice has stirred complaints across the country from consumers who feel the use of credit scoring for services unrelated to credit is both discriminatory and invasive. The issue has inspired lawmakers in at least 34 states to seek legislation that would prohibit or greatly restrict the use of such credit information when establishing insurance coverage or rates.

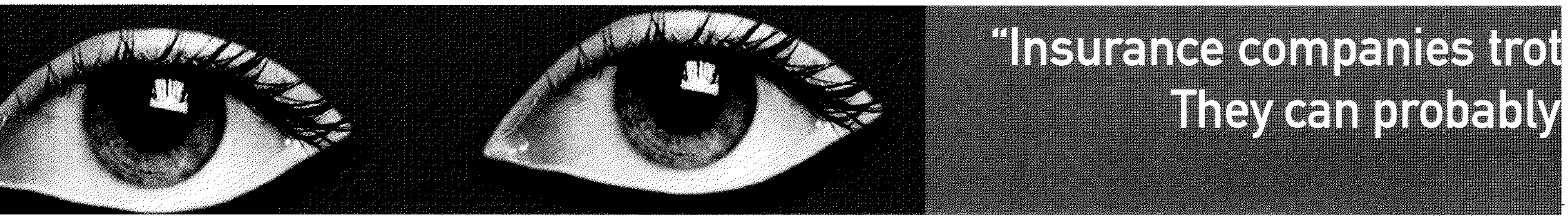
At the crux of the matter is just how the three-digit credit score is determined. Fair Isaac, a California-based research firm that designed and still owns the mathematical model for establishing such scores, set the industry standard for credit scoring in the 1950s. Called the FICO score, the model has been imitated many times and in many ways, leaving a consumer's exact rating up to the individual companies that process credit information, often leading to a consumer having different scores from different companies.

The mix of information that makes up the score, which ranges from around 350 to a high of 850, includes much more than just the timeliness of payments. Also included are items such as the total dollar amount of a person's carried balances and the number and type of open credit lines. Keeping low balances and a regular payment schedule does not guarantee a good score, as some formulas give a greater credence to higher amounts of debt than to smaller or zero credit balances.

Regardless of who does the rating, a low credit score is bad news.

CREDIT REPORT

Insurance companies, for one, look at someone with a score of 400 as being far more likely to file claims than someone whose score is 750. This practice irks critics, who say there is no data showing a correlation between low scores and an inclination to file claims.



“Insurance companies trot

They can probably

In California

In California three different Democrats have authored credit scoring bills — AB 227 by Assemblyman Juan Vargas (D-San Diego), SB 64 from Senator Jackie Speier (D-Hillsborough) and SB 691 from Senator Martha Escutia (D-Whittier) — that are working their way through legislative committees. Each would ban the use of credit scoring in any phase of insurance.

Thanks to Proposition 103 (passed in 1988), California already prohibits the use of credit scoring in establishing automobile insurance rates, and the California State Department of Insurance forbids its use in homeowner's policies. But the department claims the practice is still used by some companies, even for rating auto policies. The department has an enforcement hearing in May to deal with just such a homeowner's claim against one of the state's largest insurers — Allstate Indemnity – with another hearing in August to address the company's alleged auto insurance violations. Allstate recently paid a $1 million fine for using the state DMV database to improperly access the private records of California residents.

A spokeswoman for Allstate said the company is in a “continuing dialogue with the California Department of Insurance” on regulatory matters, even as the hearings continue in the Legislature. She said Allstate is committed to working with the department.

The situation rankles Insurance Commissioner John Garamendi.

“The use of credit scoring is nothing more than an excuse for insurance companies to red-line undesirable consumers,” says Garamendi. “It is discriminatory, and we won't stand for it.”

Doug Heller, senior consumer advocate for the Southern California-based Foundation of Taxpayer and Consumer Rights (FTCR), agrees, saying there is an “insidious connection between credit scoring and racial bias in setting insurance rates.”

Pete Moraga, of the non-profit Insurance Information Network of California, disagrees. Moraga says there is significant data to support the low score/high claim correlation. He also says California companies do not use credit scores but rather a variation of them called an “insurance score,” which he states is “only a gauge of how a particular consumer pays his or her bills,” a factor that comes into play when consumers are paying premiums in installments. Moraga says the use of such “insurance” scoring is actually beneficial to 75 percent of consumers because it does not reference age, race or economic status.

Garamendi claims that logic is absurd. “You can *call it* anything you like,” he says, “But the bottom line is that if it walks like a duck and it quacks like a duck, then it's probably a duck.”

Garamendi says one major problem with using credit scoring is the lack of consistency in how those scores are established and an unwillingness of the part of the scoring companies and insurers to reveal publicly how they individually determine scores. Without a standard to fall back on, and without those credit scoring companies being required to reveal how they tabulate their numbers, he says there is no way to ensure consumers are protected from discrimination.

Diane Colborn, Vice President for Legislative and Regulatory Affairs for the Personal Insurance Federation of California (PIFC), says she understands consumers have a hard time correlating their credit history with their insurance risk, but she says fears over the use of credit scores are unfounded.

“We don't know why there is a correlation between credit history risk, but there is a lot of hard data that shows there is an overwhelming connection,” she says. “But we certainly don't think minorities are likely to have a lower score than anyone else, and studies also show no disparate impact based on income or race.”

Bill Gausewitz, Assistant Vice President of the American Insurance Association, also says there is no credible evidence of any discrimination in the use of credit scoring for insurance purposes. He adds that numbers don't lie.

“Credit scoring is a lot like good student rates,” he says. “We statistically know that students who get good grades are less likely to have accidents than students who don't get good grades. We can't tell you why it's like this, but statistically the correlation is overwhelming.”

During recent hearings on Speier's SB 64, the Association of California Insurance Companies testified, “There is a solid body of actuarial research that establishes the strong correlation between insurance scores and risk of insured loss. ... The utilization of insurance scores benefits more consumers than it detriments.”

The industry backs its assertion by citing studies like one recently released by the University of Texas. In that study an analysis of 150,000 policyholder records indicated that there was a “significant relationship” between credit scores and insurance losses for those policies.

Other states also have chimed in

with research. A study released in February by the Alaska Division of Insurance showed that more Alaskan consumers have been placed in standard or preferred rating categories than before the advent of insurance scoring in the mid- to late- 1990s, particularly in less affluent and minority areas.

> out statistics that show whatever they want them to show.
> show that people with brown hair are more likely to file a claim…"
> — Doug Heller, Southern California Foundation of Taxpayers and Consumer Rights

The Alaska study also found that one of the state's highest income zip codes had more people in substandard rating classes and fewer in preferred or standard categories than any other individual zip code or group of zip codes surveyed — contradicting the notion that as a consumer's income rises, so does his or her credit-based insurance score.

The response from the FCTR's Heller? "So what?"

"Insurance companies trot out statistics that show whatever they want them to show," Heller argues. "They can probably show that people with brown hair are more likely to file a claim… The bottom line is that if they can't show an absolutely direct physical connection between credit scores and insurance risk — and they have admitted they can't — then those scores should not be used."

Unconvinced

Garamendi and Heller are among those who are not convinced about credit scoring's value. The recent SB 64 committee hearings drew support for the legislation from, among others, the Los Angeles County Board of Supervisors, Congress of California Seniors and the non-profit Consumers Union. Former Insurance Commissioner Harry Low also spoke against the practice, saying the use of credit scoring is not a permissible way to establish rates or eligibility.

Although her organization opposes a complete ban on credit scoring, PIFC's Colborn says there is room for negotiation on the issue and that regulation by the insurance commissioner of the use of credit scoring would be "appropriate."

That idea is based on a proposal from the National Conference of Insurance Legislators (NCOIL), which suggests that scores be used only after the insurance commissioner determines there is a "direct and relevant correlation" between credit scores and claim history, and only if the commissioner determines they are not discriminatory. The NCOIL concept also requires full disclosure to the insurance commissioner of the methodology used to determine the score, and how the end score will be used.

Both PIFC's Colborn and AIA's Gausewitz say their organizations support using the NCOIL model. The Department of Insurance is currently reviewing similar studies and models, but Garamendi has made it clear that he supports legislation to make the use of credit scoring illegal in California. To that end, he has voiced support for AB 227. He also has indicated a willingness to listen to alternative proposals but insists that his chief concern is protecting consumers, not insurance company profits.

Rich Ehisen is associate editor of California Journal. *A version of this story appeared in State Net's* Capitol Journal. *Comments may be sent to* **comments@californiajournal.com.**

What's happening across the nation

Other states looking to address the credit scoring issue include Oklahoma, where HB 1751 would create the Use of Credit Information in Personal Insurance Act, banning the use of credit information in determining personal insurance rates or eligibility. HB 1751 also would forbid the use of insurance scores that take into account race, gender, marital status or occupation as criteria.

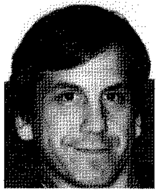
Similar bills are pending in Arkansas, Connecticut, Illinois, Kansas, New York, Lousiana, Texas, Nevada, Oregon and Pennsylvania, among others.

Not all such legislation would completely ban use of credit information. In Indiana, for example, SB 178 would prohibit insurers from denying or canceling a policy based solely on credit scoring information but would allow for the score to be part of the rate-setting criteria. Florida lawmakers are considering HB 987, which would allow insurance companies to use credit scoring, but only after they have provided the state's Office of Insurance Regulation with an accounting of the methodology used to determine the scores. The bill would also prohibit insurers from using the score to cancel or raise a consumer's rates until the insured has had a chance to fix any errors the report might contain.

Some states are also tackling the use of credit information for employment consideration. The Rhode Island House Committee on Labor is currently considering HB 5771, which would bar employers from requesting credit reports of prospective employees. LD 615 in Maine does not specifically restrict insurers, but it does prohibit consumer reporting companies from releasing credit information to anyone they suspect will use it for insurance rating or employment purposes. — *Rich Ehisen*

Outside-the-box

by Marc Sandalow



There is a joke from a less culturally sensitive era, about a man who meets with God, returns to earth, and is asked to describe what he has seen.

"First," he responds, "she is black."

The stereotype shattering story should have some poignancy for California Republicans who are still searching for a way out of the political wilderness and a candidate to take on California Senator Barbara Boxer in 2004.

Thinking outside the box prompted talk in some GOP quarters about a potential female, African American savior. She has impeccable academic and national security credentials, remarkable poise under pressure, and a direct line to President Bush.

However Condoleezza Rice, to the dismay of some Republicans, is in the midsts of fighting a foe more formidable than Senator Boxer, and has made it plain that she will not abandon her job as National Security Advisor to run for Senate (some still hope she will return to California in time to run for governor in 2006.)

So some GOP strategists have turned their attention to Rosario Marin.

> "Does George W. Bush want to appear on a platform next fall with a rich white millionaire or a Latina immigrant?"

Who's that? Take a dollar bill out of your pocket and look at the signature in the bottom left corner. Marin is the treasurer of the United States.

She is also a native of Mexico, who came to the U.S. at age 14 without speaking English, worked her way through college, rose from assistant to the receptionist to an executive position at City National Bank, served seven years in the administration of Governor Pete Wilson, two terms on the Huntington Park City Council, and is today the highest ranking Latina in the Bush administration.

"In this country, you can do whatever you want to do; you can go wherever your dreams take you," Marin told a crowd of Californians on Capitol Hill last month.

"In America, they said, they don't care who your parents and grand-parent were, or where you came from, or whether you speak with an accent: not if you show up on time, not if you work hard, not if you're willing to live by the rules."

Marin, an untested political commodity, would be a huge gamble for the GOP. There are other, far more seasoned pols in this "optimism-springs-eternal" period of the Senate race who are interested in taking on Boxer. Rep. Doug Ose of Sacramento has won in a swing district, and has a moderate voting record and personal bank account that make him instantly credible. Rep. George Radanovich of Mariposa is not only among the friendliest members of the California delegation, he is beloved by constituents and boasts a more conservative record that may appeal to primary voters.

Even Wilson, who served a term and a half in the Senate himself, has been approached about a possible comeback.

Yet Marin can do something than none of her potential rivals can — she can help the California Republican Party win, even if she loses the election.

In a state where Latino loyalties have been golden to Democrats, imagine the power of Marin's immigrant success story, played over and over again, in English and Spanish, in 15-second, 30-second, and 60-second commercials, up and down the state for the months leading up to the election.

Ten years after Wilson showed grainy pictures of desperate Mexicans scrambling across border checkpoints with the ominous warning, "They keep coming," Marin could demonstrate to voters of all political persuasions that what Republicans are really talking about is building opportunity, not fences.

Forget electability. Boxer is popular. Marin has no personal money, and no proven ability to raise the $25 million it will take to run a credible campaign. Two terms on the Huntington Park City Council is not proof of political prowess, nor is her emotional personal story, by itself, enough to convince Californians that their two-term incumbent senator should be sent home.

Yet Marin, a pro-choice advocate of the Bush economic plan, is the poster child of "compassionate conservatism," and an outside-the-box alternative for the GOP.

"Does George W. Bush want to appear on a platform next fall with a rich white millionaire or a Latina immigrant?" asked GOP consultant Mike Collins, who has been advising Marin on a voluntary basis. "I would much rather be there with a self-made Latina immigrant."

The White House has yet to weigh in. But if Bush political guru Karl Rove were to design a new political weapon for the California GOP, first, she'd be Latina.

Marc Sandalow is the San Francisco Chronicle's *Washington bureau chief. Comments may be sent to* **comments@californiajournal.com.**

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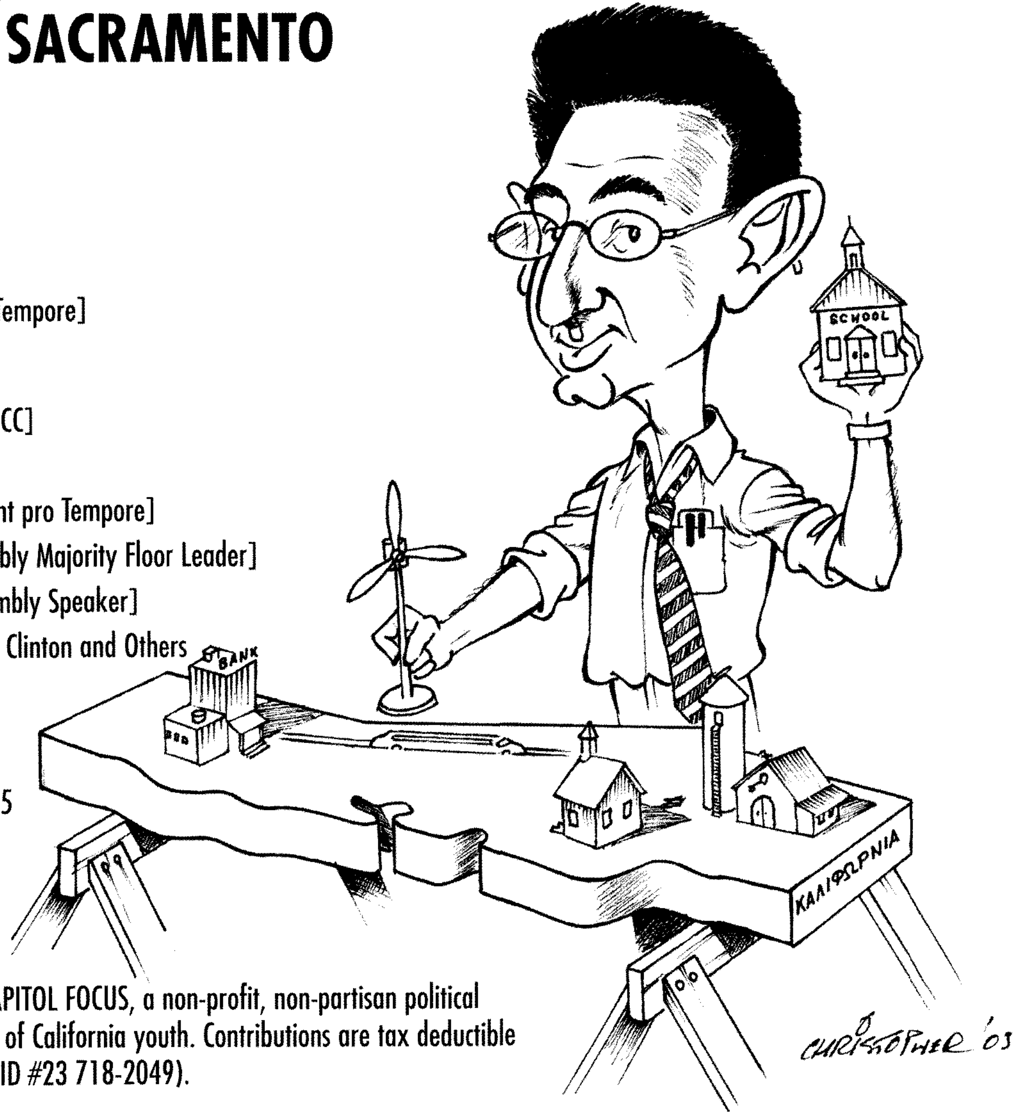

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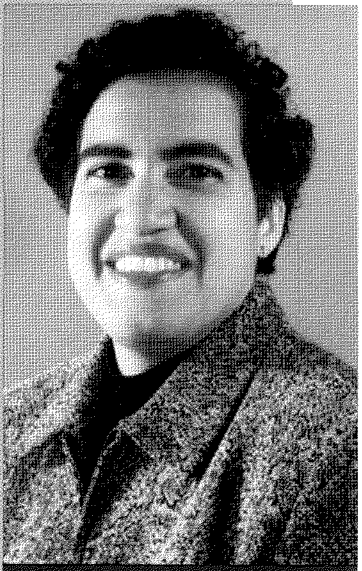
Watchdog:

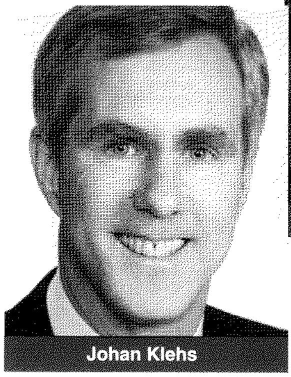
The FPPC gets a chair

So far it's been a good year for the Fair Political Practices Commission. In February, the watchdog group won a landmark ruling against the Agua Caliente Band of Cahuilla Indians — in which a judge ruled that the tribe must abide by the same campaign finance laws as everybody else. Observers say the ruling, which the tribe is appealing, is an important test of tribal sovereignty that could serve as precedent for other actions against California tribes. The FPPC alleged that the tribe was late in disclosing more than $8 million in donations to candidates and causes between 1998 and 2002. It was to be the last victory for outgoing FPPC chair **Karen Getman**, who'll join public policy and constitutional litigation firm Remcho, Johansen and Purcell. Getman's replacement, **Liane Randolph**, comes to the FPPC from Oakland law firm Meyers, Nave, Riback, Silver and Wilson. Randolph was a staff attorney in the legal division of the FPPC from 1995 to 1997.


Liane Randolph

Campaign Watch

A political battle is brewing in the Inland Empire. The *Riverside Press Enterprise* reports that the Central Labor Council there endorsed Democrat **David Pruitt** for the 62nd AD almost a year before it usually endorses candidates. Democrat John Longville, who's termed out in 2004, currently holds the seat. The endorsement alienated other Democratic candidates and drew the ire of longtime Rialto Democratic power Rep. Joe Baca, whose son, **Joe Baca Jr.**, is running for the seat. Pruitt is chief of staff to San Bernardino Mayor Judith Valles but got his start as a legislative aide in Baca's former state Senate office. Also considering a run at the seat is **Frank Reyes**, governmental relations liaison for San Bernardino Valley College, and **Marge Mendoza-Ware**, trustee on the Colton Board of Education. ... **Johan Klehs** is back and running for AD 18. Democrat **Ellen Corbett** currently holds the seat but will be termed out in 2004. Klehs, who in 2002 finished an eight-year stint on the Bd. of Equalization and lost to Steve Westly in the primary for controller, served 12 years in the Assembly in the 1980s and '90s but has one term left there. Already, say staffers, Klehs has his eye on Liz Figueroa's SD 10 seat (she's termed out in 2006), as does Corbett and Assm. **John Dutra** (D), who is termed out in 2004. Newark City Councilman **Alberto Torrico** (D) is running to replace Dutra. ... Assm. **Patricia Wiggins** will be termed out of her 7th AD seat in 2004. So far, Democrats **Jim Leddy** and **Eric Sklar** have filed to run for the spot. Leddy sits on the Santa Rosa school board and is district director for Sen. Wes Chesbro (Leddy held the same position for Mike Thompson), while Sklar sits on the St. Helena City Council. Sklar founded a restaurant chain in the Washington D.C. area called Burrito Brothers. Wiggins has filed to run for Chesbro's 2nd SD seat. Chesbro is termed out in 2006. Also rumored to be interested in the Senate seat is **Virginia Strom-Martin**, who was termed out of the Assembly in 2002 and now serves on the California Unemployment Insurance Appeals Board. ... The race to fill the 21st AD seat (Palo Alto area) of Assm. **Joe Simitian** — who's running for Senate — is heating up with three Democratic peninsula politicians filing to run. Monte Sereno Councilwoman **Barbara Nesbet**, Redwood City Councilman **Ira Ruskin** and Palo Alto school board member **John Barton** all have filed to run for the seat. ... **Joe Coto**,


Johan Klehs

Ellen Corbett

superintendent of the East Side Union High School District, is running for AD 23, currently held by Democrat **Manny Diaz**, who has filed to run for the Senate. ... Santa Clara County Supervisor **James Beall** is running for AD 24, which is currently held by Democrat **Rebecca Cohn**, who's running for the Senate. ... San Luis Obispo Community College Trustee **Sam Blakeslee**, a Republican, is running for AD 33, currently held by **Abel Maldonado**. He'll run against Republican businessman and Templeton School Board member **Jim Glaassen** in the primary. Also running for the seat, representing the Green Party, is former police officer and Hemet City Councilman **Tom Hutchings** (he moved to the district 20 years ago). ... Former GOP Assm. **Keith Olberg** is running for SD 17 in 2004, which is now held by William "Pete" Knight. Olberg lost his bid to be Sec. of State last year. Another former GOP Assm., **George Runner**, has filed to run for the same seat.

Lobbying:
CALPIRG's man on the environment

Daniel Jacobson

In a tough budget year — like 2003 — public interest groups are not only trying to get their sponsored bills through the Legislature, they're also playing defense against cuts to valued programs. It's no different with the environmental folks, who'll have to justify tight environmental controls on businesses in a year in which more and more policy makers will attempt to loosen constraints on job creation. For the California Public Interest Research Group (CALPIRG), that job will fall to CALPIRG veteran **Daniel Jacobson**, who was named legislative director for the group's new environmental advocacy unit, Environment California.

Lobbying and PR

The state Chamber of Commerce added **Yolanda Benson**, former staffer for the Assembly GOP caucus, and **Trudi Hughes**, former consultant to the Senate Comm. on Banking Commerce and Intl. Trade, to its public policy team. Benson will work on environment and education issues, while Hughes will oversee insurance and health issues for the chamber. The chamber also added **Seth Unger** to its communications team. Unger was Dpty. Press Secy. for the state GOP. ... **Sheree Kruckenberg** has moved from the CA Assn. of Health Facilities to the CA Healthcare Assn. ... **Robert McElderry** moved from lobbying for CA Medical Assn. to lobbying for pharmaceutical firm Purdue Pharma. ... **Mary-Ann Warmerdam** is new at the Regional Council of Rural Counties. Warmerdam previously lobbied for the CA Farm Bureau Federation. ... **Dean Vogel**, a Vacaville elementary school counselor, was voted secretary-treasurer of the CA Teachers Assn.

Government

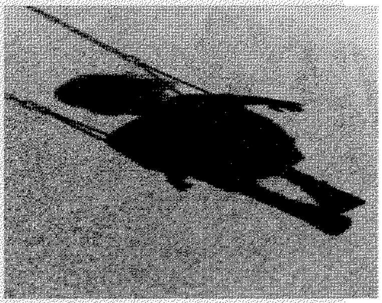
Secy. of State Kevin Shelley hired ex-SF director of Parking and Traffic **Fred Hamdun** as Dpty. Sec. of State. ... U.S. Rep. Ed Royce hired three new staffers: in Washington, **Glenn Giokaris** is the new legislative correspondent/staff assistant, and **Jeremiah Norton** is the legislative assistant. In Royce's Fullerton office, **Andrew Long** is the new constituent services rep. ... **Clark Kelso**, a McGeorge School of Law professor, was named as interim director of the state Dept. of General Services. ... Controller Steve Westly is rounding out his team with three new hires. **Karon Green** was named dpty. controller for CalPERS and CalSTRS. Green was previously consultant for the Assm. Comm. on CalPERS, Retirement and Social Security. **Marcy Jo Mandel** was named dpty. controller for tax. Previously, Mandel worked as a tax litigator for O'Melveny & Myers. Finally, **Cindy Aronberg** was named dpty. controller for boards and commissions. Aronberg previously practiced business and appellate litigation.

Other

Gov. Gray Davis appointed Brisbane high school teacher **Curtis Washington** to the State Bd. of Education. ... Los Angeles Unified Supt. Roy Romer appointed **Kenneth Gotsch** as the new chief financial officer of the district. Gotsch ran the finance dept. for Chicago public schools. ... **Alexander Gonzalez**, former CSU president at San Marcos, was named president of CSU Sacramento. ... Gov. Davis named ex-Finance Director **Tim Gage** to the Independent System Operator governing board.

Who's filling what jobs in your office? Drop us a line at **people@californiajournal.com.**

Legislation

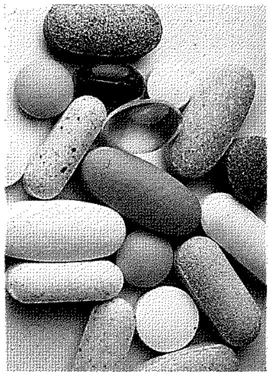


Thus far, 2003 has been a slow year for legislation from the Assembly and the Senate. California's budget crisis has seen to that. And even bills that have nothing to do with the budget deficit — like a few noted below — have been sidetracked in committee because they propose spending more money. In fact, the Appropriations Committee in each house is on orders from leadership to place on suspense (temporary death) any measure that proposes spending $150,000 or more. Even with the restrictions, however, legislation is beginning to wind through committees and onto the floor of each house. Still, only a few non-budget related bills have reached Gov. Gray Davis' desk. Davis signed one of those bills — AB 949 — on April 3. The measure, authored by Assm. Fran Pavley (D-Agoura Hills), extends the period of time in which victims of child sexual abuse can make their cases, making it harder for the accused in such crimes to delay a case. Before the measure, prosecutors had one year from the time a victim reported an allegation to press charges. Los Angeles District Attorney Steve Cooley, whose office is battling with the Archdiocese of Los Angeles over allegations that some of its priests sexually abused minors, was the main backer of Pavley's bill. AB 949 is just one bill that's been considered by committees in either, or both, houses of California's Legislature so far this session. Below are others winding their way through to passage or defeat.

Assembly Health

AB 103 (Reyes) Pharmaceutical marketing: Requires pharmaceutical manufacturers to disclose to the Board of Pharmacy information about gifts made to any person authorized to prescribe, dispense or purchase prescription drugs. *Passed Health Comm. 3/24 (Ayes 13, Noes 9) and referred to Businesses and Professions Comm.*

AB 154 (Chan) Cultural services: Requires health plans participating in the Healthy Families Program and Medi-Cal to submit annual reports detailing how culturally and linguistically appropriate services are provided. *Passed Health Comm. 3/5 (Ayes 13, Noes 9) and referred to Approp. Comm. Placed on suspense file 4/2.*



AB 358 (Jackson) Nursing home complaints: Imposes time periods in which the Dept. of Health Services (DHS) must take specific actions relating to nursing home complaints. Requires the complainant to be informed of DHS' proposed course of action within 10 working days of receipt of the complaint instead of "promptly." Requires a final determination to be completed within 30 days of DHS' receipt of the complaint. *Passed Health Comm. 3/18 (Ayes 19, Noes 1) and referred to Approp. Comm.*

Assembly Education

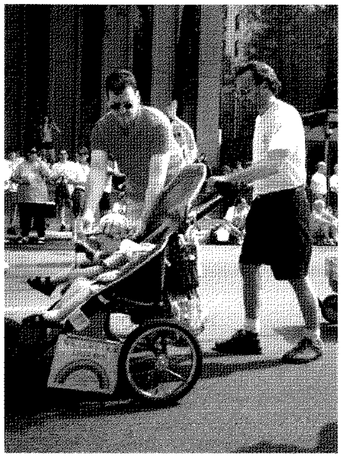
AB 56 (Steinberg) Master Plan: One of a series of bills being introduced this year to implement a master plan for education, this bill establishes a statewide system of school readiness centers and mandates full-day kindergarten. *Passed Ed. Comm. 4/2 (Ayes 8, Noes 2) and referred to Approp. Comm.*

AB 642 (Mullin) Education content standards: Requires the Supt. of Public Instruction, starting in 2010, to conduct a periodic review of curriculum content, and as part of that review, to hold regional public hearings. The bill would require the superintendent to adopt any changes in the content standards. *Passed Ed. Comm. 4/2 (Ayes 8, Noes 3) and referred to Approp. Comm.*

AB 745 (Goldberg) Administrative disclosure: Requires the governing boards of county offices of education, school districts and community college districts to report at an annual public meeting all compensation received by the superintendent or campus president and top-level administrators. *Passed Ed. Comm. 4/2 (Ayes 8, Noes 3) and referred to Higher Ed. Comm.*

Assembly Judiciary

AB 205 (Goldberg) Domestic partnerships: Offers the same legal rights as traditional married couples to same-sex couples who register with the state as domestic partners. Also requires that Cali-



fornia recognize legal unions formed in other states as valid domestic partnerships in this state. *Passed Judiciary Comm. 4/1 (Ayes 9, Noes 4) and referred to Approp. Comm.*

AB 270 (Bates) Harbor and port police exemption: Exempts harbor and port police from jury service in a similar fashion as most other peace officers. *Passed Judiciary Comm. 3/18 (Ayes 12, Noes 1) and referred to Public Safety Comm.*

Senate Judiciary

SB 1 (Speier) Privacy: Prohibits financial institutions from sharing or selling a consumer's nonpublic information without obtaining the consumer's consent. Requires that a consumer "opt in" for sharing information with an unaffiliated third party, and requires that consumers be given the opportunity to "opt out" of sharing with a financial institution's affiliates. *Passed Judiciary Comm. 2/19 (Ayes 5, Noes 2) and referred to Approp. Comm. Passed through Approp. without a vote pursuant to Senate Rule 28.8. Passed Senate 3/3 (Ayes 23, Noes 6) and referred to Assembly Comms. on Businesses and Professions and Judiciary.*

SB 25 (Bowen) Personal information: Prohibits state and local agencies from making public any individual's Social Security number as specified, except in certain cases where the number was used continuously prior to Jan. 1, 2004. Also provides that any person who uses a credit report to extend credit must take reasonable steps to verify the consumer's identity if the credit report contains a security alert. *Passed Judiciary Comm. 3/18 (Ayes 5, Noes 2) and referred to Approp. Comm. Placed on suspense file 4/7.*

SB 116 (Dunn) Mobile home expression: Allows mobile home owners to display campaign signs during a time period from 90 days before an election to 15 days following the election in a mobile home park. *Passed Judiciary Comm. 3/18 (Ayes 6, Noes 1) and referred to Senate for second reading.*

Senate Natural Resources and Wildlife

SB 412 (Sher) Scientific research: Allows the Fish and Game Commission to authorize the taking of certain protected species — designated birds, mammals, reptiles, amphibians and fish — for necessary scientific research, including efforts to recover those species. *Passed Nat. Resources and Wildlife Comm. 3/25 (Ayes 5, Noes 3) and referred to Senate. Passed Senate 3/27 (Ayes 23, Noes 8) and referred to Assembly.*

SB 86 (Machado) Delta Conservancy: Establishes the Sacramento-San Joaquin Delta Conservancy Program, to be administered by the state coastal conservancy, for the purpose of restoring, enhancing and protecting the Sacramento-San Joaquin Delta. *Passed Natural Resources and Wildlife Comm. 3/11 (Ayes 5, Noes 2) and referred to Approp. Comm. Placed on suspense file 4/7.*

Senate Health and Human Services

SB 24 (Figueroa) Medi-Cal streamline: Streamlines Medi-Cal enrollment procedures for pregnant women, infants under the age of one and other children. Creates electronic enrollment for certain groups, eliminates follow-up applications for pregnant women and infants under one-year-old and offers accelerated enrollment for children whose families apply for Medi-Cal at the county level. *Passed Health and Human Services Comm. 3/27 (Ayes 8, Noes 2) and referred to Approp. Comm.*

SB 211 (Dunn) Disclosure: Requires a residential care facility to conspicuously post a copy of its admission agreement within the facility. The admission agreement is required to include, among other things, a comprehensive fee schedule, an explanation of third-party services, information relating to residents' rights, and information relating to billing and payment, term of contract, refunds, and termination of the agreement. *Passed Health and Human Services Comm. 4/7 (Ayes 8, Noes 2) and referred to Approp. Comm.*

The war in

It was a beautiful Sacramento spring evening when the Assembly gathered on March 25 to debate HR 21 — an Iraq war resolution presented to the house by Assemblyman Fabian Nuñez (D-Los Angeles). The stage was set for a pitched battle. Before the war even began, some Democrats considered offering an anti-war resolution but, according to staffers, backed off because they didn't want to give GOP members a chance to "wrap themselves in the flag." Instead, 52 of 73 Democratic legislators signed a letter to President Bush expressing their opposition to the war. Once the war began, many Democrats didn't want to offer any resolution but eventually did almost a week after the war began to express hope that the troops get home safely and securely. Nowhere in the resolution did it say, however, that the Assembly "supports our troops," or that the Assembly, "supports President Bush." This angered Republicans, who, during the debate, offered three amendments that said exactly that. What ensued on the Assembly floor was a spirited debate that eventually ended when Assembly Democrats introduced an amendment to the resolution that injected the words, "support our troops," into the language.

HOUSE RESOLUTION 21

HR 21, as offered on the floor by Assm. Fabian Nuñez (D-Los Angeles):

WHEREAS, California is home to thousands of men and women in the United States Armed Forces and in the California National Guard many of whom are now serving in the Middle East, engaged, at great risk of personal injury and death, in hostilities with the armed forces of Iraq; and

WHEREAS, The families and employers of California reservists called to active duty are also making significant sacrifices; and

WHEREAS, Californians have the hope of a peaceful world, free of war; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF CALIFORNIA, That the Assembly proclaims its fervent hope that hostilities in Iraq end as soon as possible, and that America's servicemen and servicewomen return home quickly, safely, and uninjured; and be it further

RESOLVED, That the Assembly of the State of California urges the President of the United States of America to pursue all efforts to ensure that any American captured during these hostilities is treated in accordance with the Geneva Convention relative to the Treatment of Prisoners of War; and be it further

RESOLVED, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

Republicans offered three amendments during the floor debate. All three were voted down.

Assm. Ray Haynes (R-Riverside) offered:

"WHEREAS, President Bush has committed the resources and the lives of the American people to rid the world of the threat to peace posed by Saddam Hussein, and to free the Iraqi people from the death, destruction, and oppression visited upon them by the evil dictator, Saddam Hussein.

RESOLVED, That the Assembly of the State of California thanks the American servicemen and servicewomen for their bravery and sacrifice, and the President of the United States, George W. Bush, for his leadership, in the defense of the peace and security of the world and the liberation of the people of Iraq, and urges the President ..." (continues the original resolution).

Assm. Dave Cogdill (R-Modesto) offered:

The same language as U.S. Senate Resolution 95, which passed 99-0 on March 20. The resolution commended President Bush and the troops.

Assm. George Plescia (R-San Diego) offered, after the Democrats added, "support the troops" to the resolution:

"... and the commander in a just cause."

Sacramento

Three days before the Assembly debate, a building explodes in the Iraqi presidential palace compound during a night of air strikes. Photo: Faleh Kheiber, Reuters, 3/22/03.

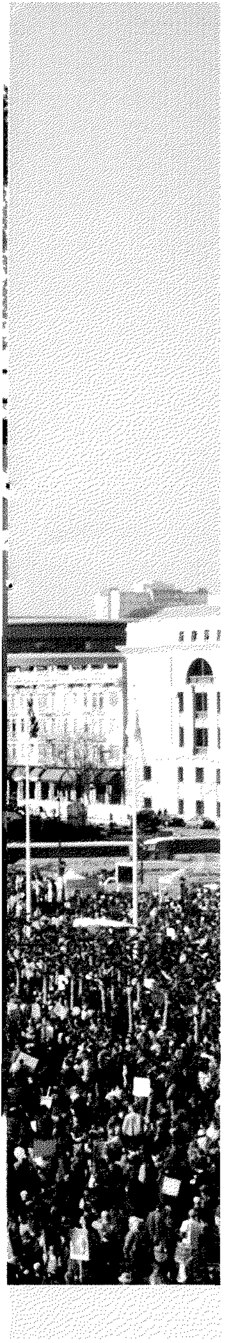
Assm. Ray Haynes (R-Riverside): My father-in-law, Jack Davis — who is no longer with us — served as a colonel in the infantry in Vietnam. ... When I was in the Senate, I asked my father-in-law to come to the floor of the Senate to watch me be sworn in and he demurred — he said he would not. And I asked him why, and he says, "Because I was in Vietnam — a colonel in the infantry with people under my charge — when Tom Hayden showed up in Hanoi." And he says, "I can tell you the names of every single 18, 19, and 20-year-old boy that died because Tom Hayden was in Hanoi, and the enemies of this country were encouraged and fought harder and fought more aggressively because Hayden was in Hanoi." And he says, "You know, I'd love to see you there, but I'm afraid I would hurt him ... it was my job to protect those boys, and he made it more difficult." You think you're not doing anything by this [resolution],

Thousands march to protest the Iraq war in San Francisco. An estimated crowd of 80,000 fills the civic center plaza. Photo: Susan Ragan, Reuters, 1/18/03

you think by saying, "We hope the boys get home soon and safe and that we hope we comply with Geneva Convention" ... that you're doing something good, well let me tell you something — you're not. When you don't support the troops, and when you don't support the commander in chief, and you don't support their mission, you are telling the evil dictator in Iraq that you support him. You are giving aid and comfort to our enemy. ... If we do not take some amendment that supports the troops and supports the commander in chief we're saying to Saddam Hussein, "We want you to win, we don't care, come home troops with your tail between your legs — quit and get out of there."

Assm. Fabian Nuñez (D-Los Angeles): I ask you to support HR 21, which would proclaim this body's support for the men and women in our armed forces and the National Guard who are now serving in the Middle East and are in harm's way. ... This resolution ... shows support to our men and women in the Middle East — make no mistake about it. ... We feel that this is an effort to try and not politicize the divisiveness that may exist in this house. ... It is not, by any stretch of the imagination, a resolution to show support for Saddam Hussein. Mr. Haynes, it is disingenuous for anyone to make that kind of declaration on this floor. This resolution doesn't speak to support for any tyranny or government that opposes democracy. This resolution is about supporting Americans; this resolution is about valuing their lives, and this resolution is about us keeping true to our commitment as Americans to understand that we don't always agree on every issue as it relates to this war.

Assm. Bonnie Garcia (R-Cathedral City): I'm looking at this [resolution] over and over again. And Mr. Nuñez, I hear you say, "Make no mistake, support our men and women," ... I don't see the words, "support our troops,"



anywhere in here. ... Why isn't it in the language of the resolution that you're asking us to adopt today? This resolution and the language in it isn't worth the paper it's printed on. Because we've gutted it ... and it says nothing. ... It was three men in uniform that knocked on the door of Corporal Jose Gutierrez's house. Mexican flag in the front yard, American flag right next to it, honoring their son that was serving our community — fighting for the very democracy that I have here today as I hang on to this mic. ... If we honor the men and women that were incinerated in the World Trade Center, if we honor the men and women that were killed in the Pentagon. If we really think back to Iwo Jima — the men and women that fought for us ... then put it into the language. Because these men and women that are being killed, these men and women that are defending our country ... they're our sons, they're our daughters, they're our children, they're our neighbors, they're our doctors, they're our friends. And they don't bleed Democrat, and they don't bleed Republican — and if we honor them, then damn it, we should honor them.

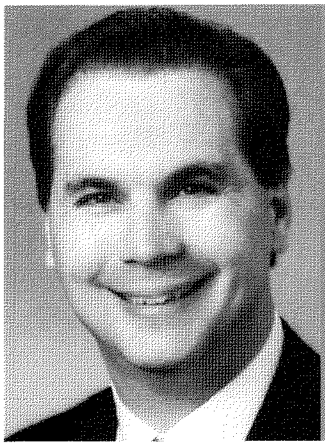
Assm. John Benoit (R-Palm Desert): Mr. Nuñez, I'd like to ask a very simple, direct question ... Do you support our troops in the field?

Assm. Nuñez: Absolutely.

Assm. Benoit: I have to beg some confusion about this [resolution] because I've read it now several times, and I find absolutely nowhere in this entire proposal where it says, "We support our troops and what they are doing." ... The absence of a statement of support for our troops and an absence of a statement of support for our commander in chief was not an oversight. What we do not say in this proposal speaks volumes about what you think.

Assm. Rick Keene (R-Chico): Mr. Nunez, do you support our commander in chief?

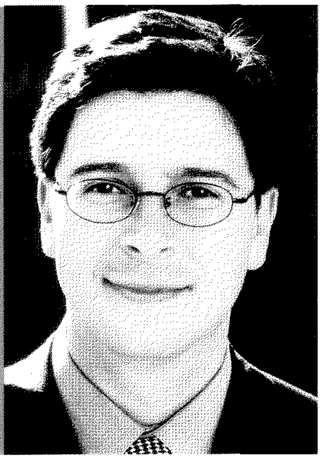
Assm. Nuñez: Let me be very blunt with you. One that engages in the art of sports sometimes supports the team — doesn't always support the leader. I believe that what this resolution strives to do is to find common ground and unity. Not everyone on this floor supports our president, if that's your question. You want to know if I personally support our president in this war? I do not support our president in this war.



"When you don't support the troops and don't support the commander in chief ... you are telling the evil dictator in Iraq that you support him."
— Ray Haynes

Assm. Keith Richman (R-Northridge): This was said earlier — let me be blunt. This house resolution is shameful. If we can't include the words, "We support our troops," or that "We support our commander in chief," it's shameful. ... Members, I suspect in a month we'll be celebrating and remembering a day — Yom HaShoah — in this chamber, the day of remembrance. The day where many members in this chamber will stand up and say, "We will never forget." Well, my Democratic colleagues in this chamber have forgotten. They've forgotten September 11. They've forgotten about a barbaric dictator — Saddam Hussein, who has cut off tongues, cut off genitals, murdered people, and used gas against his own people.

"You want to know if I personally support our president in this war? I do not support our president in this war."
— Fabian Nuñez



Assm. John Dutra (D-Fremont): I deeply and sincerely support the military — the men and women serving on our behalf in Iraq. I can't tell you how offended I am that it would even be suggested that there are members on this floor that do not. I served in the military from 1952 to 1956 and nobody had to come and get me. I volunteered. I served as a hospital corpsman, and I ended up serving in the Marine Corps ... as a medic. ... Because some words are not satisfactory to some members, the suggestion that I would not be supporting the troops is incredibly offensive to me ... and I'm not going to tolerate it. And I don't think any

Iraqis fleeing Basra in Southern Iraq as the war enters its second week. Photo: POOL, Reuters, 3/28/03

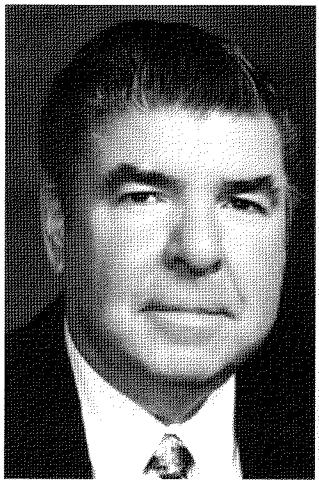
member here should tolerate such an insult. If I were young enough and strong enough, I'd have the uniform on today, and so would a lot of us here. And there are a lot of us here that are supporting what is attempting to be accomplished in Iraq. ... I think the embarrassment is that we couldn't come together in a resolution supporting our military acceptable to all of us. ... I wish this resolution were stronger. I wish it had wording in it that said very clearly that we support our troops.

Assm. Jackie Goldberg (D-Los Angeles): I request unanimous consent to add the following language to HR 21. In the first resolve, after the word, "Proclaims its," add the words, "support for our troops," and "our," so the sentence will now read, "Resolved by the Assembly of the state of California that the Assembly proclaims its support for its troops and our fervent hope that hostilities in Iraq end as soon as possible and that America's servicemen and servicewomen return home quickly, safely and uninjured."

Assm. Tony Strickland (R-Moorpark): Madame speaker, call a caucus, Republican caucus.

After caucus...

Assm. Goldberg: I have to admit enormous confusion and dismay when you start out a resolution talking about the sacrifice and great risk of personal injury and death, and when you talk about reservists called to active duty making sacrifices, and you proclaim that we want them to return home in safety — to not assume that this is not support, it boggles my mind. But when Mr. Dutra stands up and speaks and all the others as well — but I have great emotional connection to Mr. Dutra — I had to say that if it meant so much to people that we say the words, "Support our troops" instead of just mean it, instead of just do it, then I'll be the one to do it. ... These are very difficult times for all of us. What does support mean? I buried too many



"I think the embarrassment is that we couldn't come together in a resolution supporting our military acceptable to all of us. ... I wish this resolution were stronger. I wish it had wording in it that said very clearly that we support our troops."
— John Dutra

Tomorrow's Wood Today

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U.S. Marines secure a bridge over the Tigris river, a key crossing point for troop advancement to Baghdad. Photo: Oleg Popov, Reuters, 4/02/03

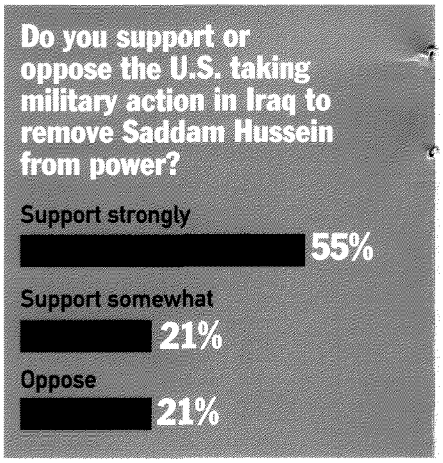
"Does support mean cutting $9.7 billion from the veteran's disability services, as was done in a congressional budget committee on Friday? That doesn't sound like support to me."
— Jackie Goldberg

young people as a high school teacher in Compton during the Vietnam War. And the ones that didn't die … I drove their parents back and forth from Camp Pendleton because their parents didn't have cars, but they were banged up and in the Navy hospital there. … Does support mean cutting $9.7 billion from the veteran's disability services, as was done in a congressional budget committee on Friday? That doesn't sound like support to me. … Is it support that the Veterans' Administration hospitals still deny that there's such a thing as a Gulf War syndrome? … That doesn't sound like support to me. Support means we want them home safe. Support means we care about them, we worry about them, we lie awake at night and are concerned for them and we're concerned for their families. We all support our troops. I ask for an "aye" vote for the amendment.

Assm. Strickland: My wife knows that I love her, but she still likes to hear it. The troops might know that you support them, but they still like to hear it. … Words do matter. I'm not ashamed that we said to our troops, "We support our troops" in this resolution. And that's a big victory for our Republican caucus. A huge victory for our Republican caucus.

Assm. Nuñez: As I said at the beginning of this great discussion on this resolution, it was always the spirit of the resolution to express full support for our troops. The six words that were added are a reflection of a strengthening of the spirit that was already contained in this resolution. … Let me say those six [words] are no victory for anyone in this house. Mr. Strickland, I have a great deal of respect for you. But I don't see those six words adding a victory to the Republican caucus, nor do I see those six words adding a victory to this house. Because as long as there are soldiers who every night go to sleep in the Middle East wondering whether they're going to be alive the next day, there is no victory in war. As long as … individuals who are prisoners of war — as long as those people don't know whether or not they are going to continue to be tortured or whether they're even going to be alive to see their families … there is no victory in war. As long as those men, women and innocent children — Iraqi civilians — who did not want this war, as long as bombs fall over them and take their lives, there is no victory in war. So this resolution is a display of our support, of our patriotism, for this great country and for our troops that are putting their lives at risk. But make no mistake about it — this is no victory for anybody. I ask for your "aye" vote.

Comments may be sent to **comments@californiajournal.com.**



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Robert Garcia – Planning & Conservation League Board Member and Director of The City Project of Los Angeles Center for Law in the Public Interest

Robert Garcia is the New PCL.

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